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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION
14

15
16 IN RE REDBACK NETWORKS, INC.
17 SECURITIES LITIGATION

Case Number C 03-05642 JF

CONSOLIDATED COMPLAINT
FOR VIOLATION OF THE
FEDERAL SECURITIES LAWS

18
19 This Document Relates to: All Actions

CLASS ACTION

DEMAND FOR JURY TRIAL

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Lead Plaintiff, Connecticut Retirement Plans and Trust Funds (the “Connecticut Retirement Fund” or “Lead Plaintiff” or “Plaintiff”), individually and on behalf of all others that purchased or otherwise acquired the common stock (“Plaintiffs”) of Redback Networks, Inc. (“Redback” or the “Company”) between and including April 12, 2000 and October 10, 2003 (the “Class Period”), alleges the following upon information and belief, except as to those allegations concerning the Connecticut Retirement Fund, which are alleged based upon personal knowledge. Plaintiffs’ information and belief are based upon, among other things, the investigation conducted by and through Plaintiffs’ attorneys, which included: (a) a review and analysis of Redback’s filings with the United States Securities and Exchange Commission (the “SEC”); (b) review and analysis of press releases, public statements, news articles and other publications disseminated by or concerning Redback or the defendants; (c) review and analysis of Redback’s analyst conference calls; (d) review and analysis of securities analysts’ reports regarding Redback; (e) interviews with over 15 former employees of Redback; (f) review and analysis of documents filed by Redback and other creditors and entities in the United States Bankruptcy Court for the District of Delaware during the course of Redback’s bankruptcy proceedings; and (g) other publicly-available information concerning Redback and the defendants.

Plaintiffs believe that further substantial evidence exists to support the allegations in this Consolidated Class Action Complaint that will become available after a reasonable opportunity for discovery. Most of the specific facts supporting the allegations herein are known only to defendants or are exclusively within their custody or control.

I. Nature and Summary of the Action

1. This is a federal securities class action against certain current and former officers and directors of Redback and other related third parties for violations of the Securities and Exchange Act of 1934 (the “Exchange Act”). The Connecticut Retirement Fund brings this action on its own behalf and as the representative of all other persons and entities that purchased or otherwise acquired the common stock of Redback (the “Class”) in reliance upon the Company’s materially false and misleading financial statements and other public statements during the Class Period.

2. Redback is a telecommunications equipment provider that specializes in equipment designed to facilitate and enhance high-speed broadband services. Styled as a start-up telecommunications company with state-of-the-art technology, Redback held its initial public offering (“IPO”) on May 17, 1999. Redback’s common stock was priced in the IPO at \$23 per share, and the Company registered and sold 2.875 million shares. Through its IPO, Redback raised from investors net proceeds in excess of \$50 million and its common stock began trading on the NASDAQ National Market under the symbol “RBAK”.

3. During the Class Period, the defendants embarked on a fraud simple in design but devastating in effect. Rather than obtain legitimate orders for Redback’s products and record real revenues from such sales, the defendants sought to prevail in the highly competitive communications industry by paying bribes or otherwise purchasing the business of other companies. In particular, the defendants targeted telecommunications giant Qwest Communications International, Inc. (“Qwest”), believing that Qwest’s purchases of Redback’s products would provide the endorsement of an industry leader that would result in legitimate purchase orders from other companies who would be deceived into believing that there was a real demand for Redback’s products.

4. Redback entered a series of secret *quid pro quo* deals with Qwest in which it improperly paid for Qwest’s business without any disclosure to investors. Redback secretly transferred to Qwest and other executives “friends and family” shares worth millions in Redback’s IPO, and warrants in a company that Redback acquired (which warrants were converted into Redback warrants worth millions of dollars), in order to obtain Qwest’s commitment to purchase Redback’s products. Later in the Class Period, Redback entered into two additional secret sales pacts to buy services from a Qwest affiliate, and products from Qwest, solely to obtain additional purchase orders from Qwest. In each of these deals, Redback did not want or need the products or services from Qwest or its affiliates, nor did Qwest want or need Redback’s products; in fact, Redback’s products had performance problems and were not even being tested by Qwest pursuant to its customary business practices, as Qwest simply intended to store (and did store) the products in a warehouse. However, the *quid pro quo* nature

1 of these deals was not disclosed to investors, who believed that there was a real demand by
2 Qwest for Redback's products, and that this demand was manifesting itself in large purchase
3 orders by Qwest, and revenues at Redback.

4 5. Defendants' fraud was successful. During the Class Period, Redback announced
5 numerous multi-million dollar contracts that it had won from Qwest and other prominent
6 telecommunications companies. Upon news of the agreements Redback had purportedly
7 obtained from Qwest, Redback's common stock soared, splitting and rising more than 3000%
8 above the Company's IPO price within one year. Qwest's purported purchases were a mark of
9 the quality and acceptability of Redback's products and technology and enabled Redback to
10 obtain the business of other telecommunications companies which purchased Redback's products
11 to complete nationwide networks for high-speed Internet users. In 2000 and 2001 alone,
12 Redback reported more than \$80 million in purported sales of goods and services to Qwest. In
13 2000, reported sales to Qwest accounted for 15% of Redback's total revenue, and in 2001 this
14 percentage grew to 18%. Thereafter, quarter after quarter, Redback heralded Qwest as its
15 marquis customer and reported artificial revenues and earnings that were based in large part on
16 the Company's undisclosed and illicit *quid pro quo* sales pacts with Qwest.

17 6. Unbeknownst to investors, Qwest's true commitments to Redback were illusory,
18 and Redback's products were not functioning and were not even being tested by Qwest, but as
19 defendants concealed these facts, their scheme succeeded in driving Redback's stock price to
20 more than \$181 per share (adjusted for splits) during the Class Period.

21 7. Using its stock (which was artificially inflated by the defendants' fraud) as
22 currency, Redback made three acquisitions and grew from a Company with \$64 million in
23 reported revenue in 1999 to one with over \$278 million in 2000, and, despite the crash in the
24 technology and telecommunications industries, Redback stayed afloat, largely due to the
25 purported sales to Qwest, as Redback reported revenue of \$227.5 million in 2001, \$125.6
26 million in 2002 and \$107.5 million in 2003. The Company's stock traded at artificially-inflated
27 prices due to the defendants' misrepresentations, and with the benefit of non-public information
28 about the true nature of Redback's faltering technology and Redback's secret sales pacts with

1 Qwest, Redback's officers and directors collectively sold more than \$150 million of their
2 Redback common stock holdings during the Class Period.

3 8. Redback and Qwest shared a common Board member, Vinod Khosla, who
4 through his Silicon Valley venture capital firm, Kleiner, Perkins, Caufield & Byers ("KPCB")
5 was a large investor in Redback. Khosla and his firm reaped millions from Redback's
6 astronomical stock price increases during the Class Period.

7 9. Near the end of the Class Period, Redback lost Qwest as its partner in the
8 fraudulent scheme when the SEC began an investigation into illicit reciprocal deals between
9 Qwest and its customers, and ultimately filed civil fraud charges against Defendant Joel M.
10 Arnold and other Qwest executives for securities law violations relating to their activities at
11 Qwest. Redback disclosed for the first time in May 2003 that the SEC was examining certain
12 Qwest transactions with Redback. When at the end of the Class Period the truth behind
13 Redback's multi-million-dollar "sales" to Qwest was finally exposed, shareholders realized that
14 Redback had overstated its revenues by more than \$80 million during the Class Period, which
15 was 23% of the Company's revenues from June 2000 to June 2001. Redback's revenues fell
16 almost 45% in 2002 and another 14% in 2003. As Redback's biggest customer and largest
17 source of revenues was no longer purchasing Redback products, and as Redback's new
18 telecommunications equipment was not functioning properly and thus was not generating
19 demand or revenues, the Company filed for Chapter 11 bankruptcy on November 3, 2003.

20 10. As a result of defendants' fraudulent scheme and material misrepresentations,
21 Redback's stock price was artificially inflated throughout the Class Period and shareholders have
22 lost hundreds of millions of dollars.

23 **II. The Parties**

24 **Lead Plaintiff**

25 11. Lead Plaintiff, the Connecticut Retirement Fund, is a public pension fund that
26 invests assets on behalf of public employees in the State of Connecticut. With approximately
27 \$20 billion in assets under management, the Connecticut Retirement Fund consists of six pension
28 funds and eight trust funds, representing, among others, approximately 160,000 teachers, police

1 officers, firefighters, state and municipal employees who are pension plan participants and
2 beneficiaries.

3 12. During the Class Period the Connecticut Retirement Fund purchased more than
4 180,000 shares of common stock of Redback and suffered losses in excess of \$3 million.

5 13. By Order dated June 25, 2004, the United States District Court for the Northern
6 District of California (the "Court") appointed the Connecticut Retirement Fund as Lead Plaintiff
7 in this case pursuant to 15 U.S.C. § 78u-4.

8 **Non-Party Redback Networks, Inc.**

9 14. Non-Party Redback is incorporated under the laws of the State of Delaware with
10 headquarters located at 300 Holger Way, San Jose, California. Redback's common stock is
11 publicly traded and listed on the NASDAQ National Market under the symbol "RBAK."
12 Redback is and was throughout the Class Period a seller and provider of broadband networking
13 equipment that enables carriers and service providers to build broadband networks that can
14 deliver broadband services to large numbers of subscribers.

15 15. On November 3, 2003, shortly after news stories and public disclosures about the
16 fraud described herein, the Company filed a voluntary pre-packaged Plan of Reorganization
17 under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court
18 for the District of Delaware. Redback emerged from bankruptcy on January 2, 2004. The
19 Company's Plan of Reorganization included, *inter alia*, a 73.39:1 reverse stock split that left the
20 pre-bankruptcy shareholders with only 2.5 million shares of Redback common stock (5% of
21 Redback's post-emergence equity), and an issuance of 47.5 million shares (95% of the
22 Company's post-bankruptcy equity) to holders of Redback's 5% convertible subordinated notes
23 due 2007, which were extinguished in the bankruptcy proceedings.

24 16. Redback would be named a defendant herein, but for the Company's bankruptcy
25 filing.
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Individual Defendants

17. Defendant Kevin A. DeNuccio (“DeNuccio”) has been the President, Chief Executive Officer (“CEO”) and a director of Redback since August 2001. Prior to arriving at Redback, DeNuccio was a Senior Vice President of Worldwide Service Provider Operations at Cisco Systems, Inc. (“Cisco”). He was responsible for and signed all of Redback’s SEC filings on Forms 10-Q and 10-K, Proxy Statements and Registration Statements while CEO and a Board member during the Class Period. DeNuccio also signed Redback’s Form 8-K that was filed with the SEC during July 2003. Furthermore, pursuant to § 13(a) of the Exchange Act and § 906 of the Sarbanes-Oxley Act of 2002, he signed and certified Redback’s Form 10-K for fiscal year 2002 (filed with the SEC on March 31, 2003) (“2002 10-K”) and Quarterly Reports on Form 10-Q for the second quarter for fiscal year 2002 (filed on August 14, 2002, the “August 2002 10-Q”), the third quarter for fiscal year 2002 (filed on November 14, 2002, the “November 2002 10-Q”), the first quarter for fiscal year 2003 (filed May 15, 2003, the “May 2003 10-Q”), and the second quarter for fiscal year 2003 (filed on August 14, 2003, the “August 2003 10-Q”).

18. Defendant Pierre R. Lamond (“Lamond”) served as Chairman of the Board of Directors of Redback (“Board”) from November 1996 through May 2003. He served on the Audit Committee of the Board until May 2003, and on the Nominating Committee from 2002 until May 2003. As Chairman, Lamond signed Redback’s Form 10-K for fiscal year 2000 (filed with the SEC on April 2, 2001) (“2000 10-K”), its Form 10-K for fiscal year 2001 (filed with the SEC on March 27, 2002) (“2001 10-K”) 2001, and its 2002 10-K, as well as several Registration Statements during those years. Lamond has been a partner in Sequoia Capital (“Sequoia”) a venture capital firm, since 1981. Sequoia, along with its affiliates, was an early investor in Redback, and was, at the time of Redback’s IPO, the biggest investor in the Company, holding about 5 million preferred shares that it was issued for approximately \$7.2 million — about a quarter of Redback’s preferred stock prior to the IPO. Lamond personally acquired almost 110,000 pre-IPO Redback preferred shares for slightly over one dollar per share and, with Sequoia, owned over 27% of Redback’s outstanding stock before the IPO, which were converted to common stock following the IPO on a one-for-one basis. During the Class Period, Sequoia

1 held a substantial position in Redback, controlling approximately 2-3% of Redback's common
 2 stock. Lamond, along with the other non-executive director defendants Khosla and Haque,
 3 received compensation for his services on the Redback Board entirely in Redback stock options.
 4 During the Class Period, Lamond received 300,000 Redback options for his Board service.

5 19. Defendant Joel M. Arnold ("Arnold") served as Redback's Senior Vice President
 6 of Worldwide Field Operations from January 2002 through July 2003. Thereafter, he has served
 7 as Redback's Senior Vice President of Strategy and Partnerships. He is responsible for
 8 developing Redback's business strategy and implementing strategic partnerships. Before arriving
 9 at Redback, he worked at Qwest for over 10 years (from September 1991 until December 2001)
 10 in various positions, ending as Executive Vice President of Global Business Sales. In February
 11 2003, the SEC filed civil fraud charges in federal court in the District of Colorado, against Arnold
 12 and seven other former and current Qwest executives, in an action styled as *SEC v. Arnold, et al*,
 13 Civ. No. 03-Z-0328 (OES) (Feb. 25, 2003). He was also implicated in the Department of Justice
 14 criminal action involving Qwest (*United States v. Graham*, D. Colo., No. 03-CR-089 (Feb. 25,
 15 2003)), having been named (along with other Qwest executives) as an unindicted co-conspirator.
 16 As Redback's Senior Vice President of Worldwide Field Operations, Arnold is responsible for
 17 developing Redback's business strategy and implementing strategic partnerships.

18 20. Defendant Thomas L. Cronan III ("Cronan") has served as Redback's Senior Vice
 19 President of Finance and Administration and Chief Financial Officer ("CFO") since January
 20 2003. From April 2001 to January 2003, he served as Redback's Vice President, General
 21 Counsel and Corporate Secretary. Pursuant to §13(a) of the Exchange Act and § 906 of the
 22 Sarbanes-Oxley Act of 2002, Cronan signed and certified Redback's 2002 10-K, May 2003 10-Q
 23 and its August 2003 10-Q. Cronan also signed Redback's Forms 8-K during 2003.

24 21. Defendant Vinod Khosla ("Khosla") served as a director of Redback from 2000
 25 through May 2003. As a non-employee director, Khosla received his compensation for his Board
 26 service entirely in Redback stock options, and he received 140,000 options during the Class
 27 Period. He was a member of the Board's Compensation Committee responsible for establishing
 28 the Company's policy on executive and key-employee compensation. Khosla came to Redback

1 from the board of Siara Systems, Inc. (“Siara”) after Redback acquired that company in a stock
 2 merger, which closed on March 8, 2000. Khosla is a founder and former CEO of Sun
 3 Microsystems, Inc. and founder of Daisy Systems. He has been a general partner of the Silicon
 4 Valley venture capital firm, KPCB, from February 1986 to the present. KPCB held over 6% of
 5 Redback’s outstanding common stock, which it acquired in exchange for its interest in Siara in a
 6 stock swap transaction with Redback in March 2000. While at Redback, Khosla signed
 7 Redback’s 2001 10-K and 2002 10-K and Redback’s Registration Statements that were filed in
 8 those years. Khosla has also been director of Qwest since June 1998.

9 22. Defendant Dennis P. Wolf (“Wolf”) served as Redback’s Senior Vice President of
 10 Finance and Administration and as CFO from January 2001 until January 2003. Wolf signed
 11 Redback’s 2001 10-K, 2002 10-K, all the Forms 10-Q for fiscal years 2001 and 2002, and
 12 Redback’s Forms 8-K and Registration Statements for those same years. Furthermore, pursuant
 13 to § 13(a) of the Exchange Act and § 906 of the Sarbanes-Oxley Act of 2002, he signed and
 14 certified Redback’s August and November 2002 10-Q.

15 23. Defendant Vivek Ragavan (“Ragavan”) served as a director of Redback from
 16 March 2000 through May 2001. He also held various executive positions, including President
 17 and CEO from July 2000 through May 2001, and President and Chief Operating Officer (“COO”)
 18 from March to July 2000. Ragavan signed Redback’s 2000 10-K, Redback’s Proxy Statement for
 19 2001, and Redback’s Registration Statements in 2000 and 2001. Between February 2001 and
 20 May 2001, Ragavan sold 100,000 shares of Redback stock for more than \$2.5 million.

21 24. Defendant Dennis L. Barsema (“Barsema”) was Redback’s President, CEO, and a
 22 director from November 1997 to July 2000. Barsema continued as Vice Chairman of Redback’s
 23 Board until May 2001. Between August 2000 and December 2000, Barsema sold over 620,000
 24 shares of Redback stock at artificially inflated prices, reaping more than \$70 million in proceeds.
 25 During the Class Period, Barsema signed Redback’s 2000 10-K, various Forms 10-Q, Proxy
 26 Statements, and several Registration Statements.

27 25. Defendant Gaurav Garg (“Garg”) has served as a director of Redback since May
 28 2001. He served on the Nominating Committee in 2002 and 2003. He was also one of the

1 founders of Redback and was a Redback Senior Vice President of Product Management from
2 August 1996 through May 2001. Between October 2000 and August 2003, Garg sold 2,206,538
3 shares of Redback stock for \$45 million. Garg signed Redback's 2001 10-K and 2002 10-K, as
4 well as the Company's various Registration Statements. Garg has been a partner at Sequoia since
5 May 2001.

6 26. Defendant William H. Kurtz ("Kurtz") has served as a director of Redback since
7 October 1999. Like the other non-executive directors, he received compensation for his services
8 on the Redback Board entirely in Redback stock options. Kurtz was a member of the Audit
9 Committee of the Board from 2000 through 2003, where he was held out as a certified public
10 accountant with financial management expertise. Kurtz signed Redback's 2000 10-K, 2001 10-K
11 and 2002 10-K. He also signed Redback Registration Statements filed with the SEC in those
12 same years. In October 2000, Kurtz sold 35,000 shares of Redback stock, reaping proceeds of
13 almost \$2.5 million.

14 27. Defendant Craig Gentner ("Gentner") was Redback's Vice President of Finance,
15 CFO and Corporate Secretary from 1999 to January 2001. Mr. Gentner signed Redback's
16 materially false and misleading Forms 10-Q for the first, second, and third quarters of 2000, and
17 various Forms 8-K and Registration Statements during that same year. During October 2000,
18 Gentner sold 120,000 shares of Redback stock for \$15.7 million.

19 28. Defendant Randall J. Kruep ("Kruep") joined Redback in 1997 and was
20 Redback's Vice President of Worldwide Sales from 1999 to February 2001. Prior to 1999, Kruep
21 served as the Company's Vice President of Sales. Between August 2000 and October 2000,
22 Kruep sold 64,600 shares of his Redback stock for more than \$9.6 million.

23 29. Defendant William E. Miskovetz ("Miskovetz") was Redback's Vice President of
24 Engineering from May 1998 to 2001. In 1998, Miskovetz was paid \$108,750 in salary and bonus.
25 In 1998, Redback granted Miskovetz options for 317,500 shares of Redback's common stock.
26 Between June 2000 and August 2000, Miskovetz sold 20,000 shares of his Redback common
27 stock for more than \$2.6 million.

30. Defendant Pankay Patel (“Patel”) was Redback’s Senior Vice President of Engineering from March 2000 to January 2003. Patel joined Redback in March 2000 as a result of Redback’s acquisition of Siara. In March 2001, Patel sold 144,000 shares of Redback stock for approximately \$4.3 million.

31. Defendant Promod Haque (“Haque”) served as a director of Redback from March 2000 through 2003. As a non-employee director, Haque was paid for his Board service entirely in Redback stock options, and he received 220,000 options during the Class Period. He served on the Audit Committee from 2001 through 2003. Haque signed Redback’s 2001 10-K and 2002 10-K and various Registration Statements filed in those same years. Haque has been a partner with Norwest Venture Partners since 1990. During the Class Period, Norwest Venture Partners maintained a substantial ownership position, as high as 4.76%, in Redback.

32. Defendant Georges Antoun (“Antoun”) was brought to Redback by fellow Cisco alumnus DeNuccio on August 29, 2001. During the Class Period, Antoun served as Redback’s Senior Vice President of Product Management and Marketing from August 2001 to January 2003, Senior Vice President of Engineering, Product Management and Marketing from January 2003 until July 2003, and thereafter as Senior Vice President of Worldwide Field Operations and Product Management.

33. DeNuccio, Lamond, Arnold, Cronan, Khosla, Wolf, Ragavan, Barsema, Garg, Kurtz, Gentner, Kruep, Haque, Miskovetz, Patel, and Antoun are sometimes collectively referred to herein as the “Individual Defendants.”

34. By virtue of the Individual Defendants’ positions within the Company, they had access to undisclosed adverse information about Redback’s business, operations, operational trends, sales, finances, revenue recognition markets and present and future business prospects. The Individual Defendants were privy to confidential information through Redback’s internal corporate documents (including the Company’s operating plans, budgets, forecasts, and reports of actual operations compared thereto), conversations, meetings and connections with other corporate officers and employees, conversations, meetings and connections with vendors and customers, attendance at sales, management, and Board meetings, including committees thereof,

1 and through reports and other information provided to them in connection with their roles and
2 duties as Redback officers and directors.

3 35. The Individual Defendants, by virtue of their high-level positions within the
4 Company, directly participated in the management of the Company, were directly involved in the
5 day-to-day operations of the Company at the highest levels and were privy to confidential
6 proprietary information concerning the Company and its business, operations, sales, prospects,
7 growth, finances, and financial condition, as alleged herein. Because of their positions and
8 access to material non-public information available to them but not to shareholders or the
9 investing public, each of the Individual Defendants knew that adverse facts specified herein were
10 not disclosed and that positive representations that they were causing Redback to make were
11 materially false and misleading when made.

12 36. The Individual Defendants were involved in drafting, producing, reviewing,
13 approving and/or disseminating the materially false and misleading statements and information
14 alleged herein, including SEC filings, press releases, and other public documents, knew or with
15 deliberate recklessness disregarded the fact that materially false and misleading statements were
16 being issued regarding the Company, and approved or ratified these statements, in violation of
17 federal securities laws.

18 37. As officers and controlling persons of a publicly-held company whose common
19 stock was, and is, registered with the SEC pursuant to the Exchange Act, and was traded on the
20 NASDAQ, and governed by the provisions of the federal securities laws, the Individual
21 Defendants each had a duty to promptly disseminate accurate and truthful information with
22 respect to the Company's financial condition and performance, growth, operations, sales,
23 financial statements, business, markets, management, earnings and present and future business
24 prospects, and to correct any previously issued statements that had become materially misleading
25 or untrue, so that the market price of the Company's publicly-traded securities would be based
26 upon truthful and accurate information. The Individual Defendants' material misrepresentations
27 and omissions violated these specific requirements and obligations.

38. The Individual Defendants, by virtue of their positions of control and authority as officers and/or directors of the Company were able to and did control the content of the various SEC filings, press releases and other public statements pertaining to the Company. The Individual Defendants were provided with copies of the documents alleged herein to be misleading prior to or shortly after their issuance and/or had the ability and/or opportunity to prevent their issuance or cause them to be corrected. Accordingly, they are responsible for the accuracy of the public reports and releases detailed herein.

Michael Perusse

39. Defendant Michael Perusse (“Perusse”) was Qwest’s Senior Vice President of Engineering from 1998 through 2000. Perusse’s responsibilities included finding promising technologies and introducing Qwest to the companies that created them. Perusse was one of the Qwest insiders who received “friends and family” shares of Redback.

Marc B. Weisberg

40. Defendant Marc B. Weisberg (“Weisberg”) was Executive Vice President, Corporate Development of Qwest from October 2000 until September 2001. He joined Qwest as Senior Vice President, Corporate Development in September 1997. Weisberg oversaw Qwest’s strategic alliances. He was also President and Chief Executive Officer of Qwest Investment Company, Qwest’s whole-owned venture capital subsidiary.

PricewaterhouseCoopers LLP

41. Defendant PricewaterhouseCoopers LLP, (“PwC”), which is headquartered in New York City, at all times relevant hereto, was a limited liability partnership. PwC, from its San Jose, California office, served as Redback’s external auditor since the inception of the publicly traded Company in 1999.

42. PwC issued clean and unqualified audit opinion letters in connection with Redback’s financial statements for fiscal years 1999, 2000, 2001 and 2002, which were incorporated with PwC’s approval in Redback’s Form 10-K and other public filings in the Class Period. PwC also reviewed Redback’s quarterly financial statements, which were incorporated in the Company’s Forms 10-Q filed with the SEC in 1999, 2000, 2001, 2002 and 2003. PwC and

1 various individual partners of the firm have participated in the audits of Redback since 1996, and
 2 prepared, reviewed, approved, and directed the production of financial statements, reports and
 3 releases issued or disclosed by Redback throughout this period.

4 43. PwC audited Redback's materially false and misleading financial statements
 5 during all relevant periods and issued materially false and misleading opinions on those financial
 6 statements. PwC also consented to the use of its unqualified opinions in Redback's financial
 7 statements and reports filed with the SEC, which were disseminated to the investing public
 8 during all relevant periods. These financial statements were incorporated into and made a part of
 9 the Company's public filings and offering memoranda with the knowledge and express consent
 10 of PwC.

11 44. At all relevant times, as Redback's independent auditor, PwC was well aware that
 12 revenue derived from sales to Qwest – Redback's largest customer – was material to Redback's
 13 business and reported revenues. PwC knew, through its audits and access to all of Redback's
 14 financial information, or with deliberate recklessness disregarded, that Redback was issuing
 15 discounted shares to Qwest executives, and purchasing Qwest's products and services that
 16 Redback did not want or need, in exchange for Qwest's agreement to purchase millions of
 17 dollars in products and services from Redback.

18 **III. Jurisdiction and Venue**

19 45. This Court has jurisdiction over the subject matter of this action pursuant to 28
 20 U.S.C. §§ 1331, 1337, and Section 27 of the Securities Exchange Act of 1934 (the "Exchange
 21 Act"), 15 U.S.C. § 78aa.

22 46. The claims asserted herein arise under and pursuant to Sections 10(b), 18 and
 23 20(a) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78r and 78t(a), and Rule 10b-5 promulgated
 24 thereunder, 17 C.F.R. § 240.10b-5.

25 47. Jurisdiction and venue are proper in this District pursuant to Section 27 of the
 26 Exchange Act, 15 U.S.C. § 78aa and 28 U.S.C. § 1391 (b) and (c). Venue is proper in this
 27 District because many of the acts and practices complained of herein occurred in substantial part
 28

1 in this District. In addition, Redback is headquartered in this District at 300 Holger Way, San
2 Jose, California 95134.

3 48. In connection with the acts and omissions alleged in this Consolidated Complaint,
4 the defendants, directly and/or indirectly, used the means and instrumentalities of interstate
5 commerce, including without limitation, the mails, interstate telephone communications and the
6 facilities of the national securities markets and exchanges.

7 **IV. Background and Substantive Allegations**

8 49. Redback provides telecommunications networking equipment and services that
9 enable carriers and service providers to deploy high-speed access to the Internet and corporate
10 networks. The Company's product lines include the Subscriber Management System ("SMS™")
11 and SmartEdge™ family of networking hardware and software products that enhance and
12 manage a full-range of broadband connections, including Ethernet, DSL, cable and wireless
13 connections. Redback's SMS™ products were designed to connect and manage devices used to
14 gather a large number of high-speed access technology subscribers such as DSL subscribers at
15 one end of the network with devices at the other end of the network used to connect to the
16 Internet. The SmartEdge™ products were designed to enable service providers to add revenue-
17 generating services to their networks.

18 50. Co-founded by defendant Gaurav Garg in 1996, Redback never sold a single
19 product or service until the end of 1997. The Company lost almost \$10 million in 1998, but
20 claimed that with the Internet "exploding" and "thousands of users going on-line each month,"
21 Redback's SMS™ technology offered an economical solution for the challenges associated with
22 scaling and configuring existing networks to accommodate a large number of users of new high-
23 speed services, without compromising network performance.

24 51. In May 1999, Redback held its IPO, selling 2.875 million shares of its common
25 stock at \$23 per share. The Company raised over \$50 million in the IPO, and its stock began
26 trading on NASDAQ under the symbol "RBAK".

27 52. Redback's stock instantly became one of the many Internet darlings in the high-
28 tech sector. With the promise that large telecommunications service providers were testing and

1 going to implement Redback's SMS™ technology into their networks, the Company's stock rose
2 from its \$23 IPO price to \$99.49 by June 28, 1999.

3 53. The promising start-up Company had an undisclosed secret to its success. Prior to
4 the IPO, Redback provided "friends and family" shares of its stock to insiders and executives at
5 targeted telecommunications customers in exchange for vital commitments from those
6 companies to purchase Redback's products. Many of the early commitments by
7 telecommunications giants to buy Redback's SMS™ technology were rewards for the lucrative
8 stock kickbacks.

9 54. According to a former Director of Sales for WorldCom and other accounts at
10 Redback who worked at the Company from December 1999 through March 2002 (the "Redback
11 Sales Director"), the "friends and family" stock-give-away program was endemic to Redback's
12 business. WorldCom's UUNET ("UUNET") division was one of the first users of Redback's
13 SMS™ technology. Although UUNET had technical problems with the SMS™ products and
14 also discovered problems with features of the SmartEdge™ product when UUNET was testing
15 the product in its labs, UUNET never publicly disclosed the problems with Redback's products,
16 and according to the Redback Sales Director, UUNET purchased a large quantity of the
17 SmartEdge™ product. The Redback Sales Director stated that he believed that UUNET received
18 stock from Redback in the "friends and family" secret offerings.

19 55. Also prior to the IPO, and according to the Redback Sales Director, Redback
20 provided "friends and family" shares to executives at Qwest. Qwest was viewed at Redback as
21 an extremely important customer whose endorsement of Redback's products would lead to
22 purchases by other telecommunications companies of Redback's products.

23 56. On June 28, 1999, Redback announced that Qwest "would use the Redback
24 SMS™ 10000 to aggregate traffic from DSL, cable and wireless POPs, providing customers with
25 high-speed connectivity to the Qwest nationwide IP-based network and the Internet." There was
26 no disclosure of the terms of any contractual arrangement between Redback and Qwest or the
27 amount of products that Qwest would buy from Redback; the Company vaguely stated only that
28 the deal was a "multi-year, multi-million dollar agreement."

1 57. Despite the lack of detail in Redback's announcement about the terms of the
2 Qwest deal, in response to the news, Redback's stock price jumped from a close of \$99.49 on
3 June 28, 1999 to \$113.39 on June 29, 1999 and to \$125.99 on June 30, 1999. Redback and the
4 Individual Defendants quickly understood that doing business with industry giant Qwest
5 provided instant credibility to Redback and resulted in an immediate jump in the Company's
6 stock price. With Qwest's stamp of approval for Redback's products, the market perceived
7 Redback not as a young start-up with its attendant risks, but as an established new
8 telecommunications equipment supplier. The Company's stock continued to climb, reaching
9 \$214.98 on August 19, 1999, and splitting two-for-one the next day, closing at \$104.76 on
10 August 20, 1999.

11 58. Redback and the Individual Defendants decided to use the Company's rising stock
12 as currency for acquisitions. In November 1999, the Company announced that it would acquire
13 another communications company, Siara Systems, Inc. ("Siara"), for approximately \$4.5 billion.
14 Siara had only \$7.6 million of book value assets and a \$14.2 million deficit in stockholders'
15 equity. Siara had yet to record any revenue and had no saleable products at the time of the
16 acquisition. What caused Redback to make this acquisition was Siara's promising new
17 networking product, the SmartEdge™ technology. However, Redback and the Individual
18 Defendants knew that they needed more than the one product that Siara could contribute to
19 Redback to justify Redback's growing market value. While Redback had enjoyed a meteoric
20 rise in its stock price following its IPO and the announcement of a deal with Qwest, it now
21 needed to show real financial results. Qwest had not purchased any products from Redback, nor
22 had Redback booked by the end of 1999 any revenues from its new relationship with industry
23 titan Qwest. Redback and the Individual Defendants wanted to start the next fiscal year with the
24 hard revenues demanded by investors and the market as proof that Redback had staying power.

25 59. Accordingly, Redback bribed executives at Qwest to purchase Redback products
26 so that Redback could start booking revenues from its highly publicized deal with Qwest. Kruep
27 and other Individual Defendants caused Redback and Siara to agree to transfer 40,000 warrants
28 for shares of Siara's stock to Qwest's executives in exchange for an agreement by Qwest to

1 purchase \$40 million worth of Redback's products. In March 2000, Redback consummated its
2 acquisition of Siara, and holders of shares, warrants and options of Siara received over 31
3 million shares of Redback's common stock, which was more than 38% of the Company's total
4 outstanding common stock. The Siara warrants were exchanged for Redback warrants when the
5 merger of the companies was consummated, with the Siara warrants given to Qwest executives
6 having a value of approximately \$6.8 million.

7 60. Pursuant to the Merger Agreement between Redback and Siara, defendants
8 Haque, Khosla and Ragavan, who were members of Siara's board of directors, became members
9 of Redback's Board. Defendant Ragavan, a director and the Chief Executive Officer of Siara,
10 also became the President and Chief Operating Officer of Redback after the merger. Defendant
11 Khosla, now serving on the board of directors of both Redback and Qwest, was in a unique
12 position to understand the importance and nature of the relationship between Redback and
13 Qwest.

14 61. A former Redback Vice President of Sales for North America ("Redback Sales
15 VP") who worked at the Company from August 1999 to March 2002 provided additional detail
16 on the illicit *quid pro quo* agreement between Redback and Qwest. This former Redback
17 executive said that Redback agreed to provide the Siara warrants to Qwest executives and the
18 Anschutz Foundation, which is a charitable foundation headed by Philip F. Anschutz, the
19 founder and a director of Qwest. The Redback Sales VP first learned about the secret warrants-
20 for-purchases deal with Qwest in late 1999, when Kruep informed him that there were large
21 Qwest orders that "were going to come" in the near future. This news surprised the Redback
22 Sales VP, as he was in charge of the Qwest account and would thus be aware of Qwest's
23 purchases or plans to purchase Redback products. Additionally, prior to making any purchases,
24 Qwest routinely conducted field trials and lab tests on products to ensure the quality of the
25 products and their usefulness to Qwest, but the Redback Sales VP was not aware of any such
26 tests by Qwest being conducted on any Redback products. The Redback Sales VP discovered
27 that Defendant Kruep was communicating with Defendant Weisberg, the former Business
28 Development Chief at Qwest, regarding the terms of the warrants-for-purchases deal. Kruep and

1 Weisberg worked out the basic terms of the exchange involving the transfer of Siara warrants to
2 Qwest executives (through the Anschutz Foundation) in return for Qwest's purchases of Redback
3 products. The Redback Sales VP stated that he was "caught in the middle" with trying to make
4 his sales numbers, and that he received assurance only at critical points "at the end of each
5 quarter" that Qwest's orders as required under the sales pact would be placed to allow Redback
6 to make the numbers that Wall Street expected.

7 62. The Company soon began to report the revenues it desperately needed to satisfy
8 investors. Beginning on April 12, 2000, the first day of the Class Period, Redback began
9 reporting financial results derived in substantial part from its arrangement with Qwest. For the
10 first two quarters of 2000, Redback reported record revenues of \$183 million, a 370% increase
11 over the first two quarters of 1999. As Redback and the Individual Defendants expected,
12 Redback's stock price continued its steep ascent.

13 63. But Redback and the Individual Defendants needed additional revenues from
14 Qwest to sustain the illusion of business success at Redback. Accordingly, they expanded their
15 fraudulent scheme to include another instance of Redback buying revenues from Qwest. As part
16 of this scheme, in the third quarter 2000, Redback agreed to purchase \$18 million of web-hosting
17 services over five years from Qwest Cyber.Solutions, LLC ("QCS"), an affiliate of Qwest that
18 was founded in July 1999, in exchange for Qwest's commitment to purchase Redback's
19 SMSTM10000 product.

20 64. According to the Redback Sales VP, Qwest had not tested Redback's SMSTM
21 10000 product in Qwest's labs as required under Qwest's routine business practices. Qwest
22 already knew (as did Redback and the Individual Defendants) that the SMSTM10000 hardware
23 and software were unstable and knew that Qwest had no need or use for that product. Indeed, the
24 SMSTM10000 product purchased from Redback languished for years in Qwest's warehouse
25 where that product was stored. While these facts were material to investors, they were not
26 important to Redback or Qwest, as Redback was simply seeking ways to book additional
27 revenues received from Qwest, and Qwest was seeking a customer to purchase and endorse the
28

1 QCS product. Qwest was planning an IPO of QCS, which, if successful, would enable Qwest's
2 executives to reap millions from their QCS stock holdings.

3 65. Just as Qwest had no need for Redback's SMS™10000 products, Redback had no
4 need or use for the web-hosting services purchased from QCS. As stated by the former Redback
5 Sales VP, Kruep and others at Redback agreed to purchase the services from Qwest solely in
6 order to obtain in Qwest's agreement to purchase the SMS™10000, which was not selling well,
7 so that Redback could meet Wall Street's expectations for Redback.

8 66. Having booked sales to Qwest, by April 2000 Redback could hold itself out as a
9 pioneer in network services with a proven client base including Qwest. Redback and the
10 Individual Defendants decided to capitalize on their fraud by tapping the secondary markets
11 again, this time in a debt offering. In or around July 2000, Redback sold \$500 million of 5%
12 Convertible Notes due 2007 to the investing public.

13 67. Based upon the purported sales to Qwest, Redback continued to report growing
14 revenues, and the amount of the revenue increase was staggering. On October 13, 2000,
15 Redback issued an earnings release announcing its financial results with net revenues of \$80.6
16 million for the third quarter of 2000, a 291% increase over the third quarter of 1999. Upon news
17 of the record revenues, Redback's stock price soared from \$102.70 the previous day to \$121.53
18 on October 13 and to \$138.76 on the next trading day, October 16, 2000.

19 68. The Individual Defendants used Redback's artificially inflated stock during the
20 Class Period as currency to acquire more companies and their attendant revenues. In October
21 2000, Redback acquired Abatis Systems Corporation ("Abatis Systems"), a developer of systems
22 for IP service management solutions, for approximately \$655 million. Former holders of shares,
23 warrants and options of Abatis Systems acquired 5.2 million shares of Redback's common stock
24 in that transaction, not aware that those shares were inflated by the defendants' fraud.

25 69. Redback's CEO, Defendant Ragavan, heralded the acquisition as having
26 "significant operational cost savings and revenue generating benefits." In reality, Redback
27 manipulated its accounting in connection with the Abatis and the Siara acquisitions to understate
28 the Company's expenses. Through its acquisitions of Siara in March 2000 and Abatis in

1 September 2000, Redback improperly allocated \$40.4 million of the purchase price for those
2 companies to in-process research and development (“IPR&D”) in order to manipulate future
3 earnings. By inappropriately allocating excessive amounts of the purchase price to IPR&D
4 instead of to goodwill, Redback was able to charge-off the entire \$40.4 million in the year of the
5 acquisition as a one time “non-recurring” event instead of over the life of the goodwill asset and
6 therefore, Redback eliminated future reductions in earnings.

7 70. Defendants’ fraud had a material effect on Redback’s reported revenue, and
8 therefore, its stock price as well. Sales to Qwest accounted for 24% of Redback’s total revenue
9 for third quarter 2000, more than 18% for fourth quarter 2000 and 15% of the Company’s total
10 revenue for all of 2000. For the entire 2000 year, Redback’s sales to Qwest totaled \$40 million,
11 the amount required under the undisclosed sales pact.

12 71. While the Individual Defendants caused Redback to tout the success of its sales to
13 Qwest and continually held Qwest out as a key customer, they never disclosed that Redback was
14 essentially paying for its own revenues through transfers of warrants (in Siara) or shares in
15 Redback to Qwest and other telecommunications companies and their executives. Unbeknownst
16 to investors, Qwest did not need and had not tested the SMS™ products that it purchased from
17 Redback, nor did Redback need the web-hosting services it purchased from Qwest.

18 72. According to a former Vice President of North American Sales that worked at
19 Redback from August 2000 through August 2001 (the “VP NA Sales”), in or around August or
20 September 2000, Redback’s engineers told Kruep and others at Redback that development on
21 new capabilities for the SmartEdge™ product was not complete and that the product would not
22 be ready to ship in 2001. Kruep then immediately communicated these facts to the Board and
23 warned that the Company’s established revenue targets for 2001 could not be met. The Board,
24 however, refused to revise the unrealistic revenue targets or Redback’s business plan for 2001,
25 even though they knew that the Company could not generate sales sufficient to meet Redback’s
26 guidance or Wall Street’s expectations.

27 73. By November, 2000, Redback’s stock price began to decline, along with the stock
28 of Redback’s telecommunications peers and other Internet companies.

1 74. However, the Individual Defendants desperately wanted to distinguish their
2 Company from their telecommunications and Internet brethren, and show that Redback had real
3 revenues, which would continue to sustain the Company. The Individual Defendants were
4 determined to announce another big deal with Qwest, and, as a result, drive up the price of
5 Redback's stock, or at least keep it at an artificially-inflated level and avoid the decline affecting
6 the stocks of the Company's peers.

7 75. In order to book more revenues from Qwest, Redback once again had to pay
8 Qwest, this time, for a purchase of products that Redback did not want or need. On February 5,
9 2001, Redback announced that Qwest had agreed to another multi-year, multi-million dollar
10 purchase of Redback's SmartEdge™ 800 product. Redback's stock price increased 9% on news
11 of the new contract, going from \$40.25 on February 2, 2001 to \$44.25 the next day, even though
12 Redback's announcement did not specify the term or amount of this new deal.

13 76. When Redback attempted to actually close product sales to Qwest, Qwest refused
14 and said that it would only purchase products from Redback if Redback would purchase products
15 from Qwest.

16 77. In late March 2001, Defendant Michael Perusse, a Senior Vice President of
17 Engineering at Qwest, secretly approached Redback and proposed a new fraudulent deal.
18 Perusse stated that before Qwest would complete a previously-placed order for \$30 million of
19 Redback's product, Redback had to buy \$7 million worth of Indefeasible Rights of Use ("IRU")
20 on Qwest's fiber-optic network.

21 78. Even though Redback had no need for and would never have any need for the
22 IRU, Redback desperately needed additional revenues, so it agreed to Perusse's demands in
23 order to obtain needed business from Qwest.

24 79. According to the Redback Sales VP, Defendant Wolf authorized the \$7 million
25 payment to Qwest for the IRU. The Redback Sales VP said that the Company later tried to sell
26 the useless IRU to other telecommunications carriers, but was unsuccessful.

27 80. Redback's secret *quid pro quo* arrangements with Qwest during the Class Period
28 resulted in huge contributions to Redback's total reported revenues. Redback disclosed that sales

1 to Qwest accounted for 28% of Redback's total revenue in the first quarter of 2001, and 27% of
2 Redback's total revenue for the six-month period ended June 30, 2001. The Individual
3 Defendants failed to disclose to shareholders and investors that these revenues would not have
4 been generated without Redback's secret agreements to purchase products from Qwest (and
5 services from Qwest's affiliate QCS) that Redback did not want or need.

6 81. During the Class Period, Redback booked over \$80 million in revenues from sales
7 of SMS™ and other products and services to Qwest. The reported revenues from Qwest's
8 purchases enabled Redback to complete at least three acquisitions in the Class Period and
9 artificially inflated the price of Redback's stock. However, unbeknownst to investors and the
10 entire investment community, the impressive sales (for a start-up company) to an established
11 industry titan (Qwest) resulted from an undisclosed scheme in which Redback either bribed
12 Qwest executives or "round-tripped" Redback's own money to Qwest which was then returned
13 to Redback through bogus deals designed to artificially inflate Redback's reported revenues,
14 income and assets. Redback entered these deals with Qwest solely to obtain Qwest's business
15 and to record revenues from sales that would not have occurred but for the fraud.

16 82. In September 2001, Redback completed its third acquisition since going public in
17 1999. In another all-stock deal valued at approximately \$57 million, Redback acquired Merlin
18 Systems ("Merlin") by issuing 3.5 million shares of Redback's stock in exchange for all of
19 Merlin's outstanding stock, warrants and options.

20 83. In December 2001, Qwest had announced that Defendant Arnold was leaving the
21 company "to spend more time with his family and pursue other interests." Shortly thereafter, in
22 January 2002, Redback hired Arnold and created a position for him as the Senior Vice President
23 of Worldwide Field Operations to oversee a newly-combined sales and customer service
24 organization within Redback. In the press release announcing Arnold's employment, DeNuccio
25 stated that he had "the utmost confidence" in Arnold and Redbacks' other key leaders and that
26 the new organizational structure was "in strong alignment with our growth strategy." According
27 to a former Redback Sales Account manager (the "Redback Sales Manager") who worked at
28 Redback from July 2001 to October 2002 and had some responsibility for the Qwest account,

DeNuccio's decision to hire Arnold was "highly suspicious" because Arnold worked at Qwest and there were many known problems at Qwest. The Redback Sales Manager said that although Arnold was hired to oversee the sales organization at Redback, Arnold was "was never around" and Redback's sales account managers "never saw him."

84. Arnold had worked at Qwest from at least 1997 through December 2001 in various executive positions, including Executive Vice President of Global Business Markets. The reasons that Arnold had euphemistically left Qwest "to pursue other interests" became apparent in March 2002 when Qwest acknowledged that the SEC was investigating accounting improprieties at Qwest and various transactions between Qwest and certain of its vendors. Redback's sales to Qwest came to a quick end, although Redback continued in its press releases and public filings to hold Qwest out as an important customer.

85. Arnold was implicated in the SEC's investigation and was named as a defendant in a civil fraud action filed by the SEC in February 2003 arising out of Arnold's participation in a fraudulent scheme to overstate Qwest's revenues in 2000 and 2001. The scope of the SEC's investigation included Qwest's revenue-recognition from IRU sales and reciprocal sales of equipment to customers that purchased Internet services from Qwest or contributed equity financing to Qwest.

86. According to the SEC's complaint, Qwest agreed to provide Genuity Inc. ("Genuity") with Internet services using equipment owned and operated by Qwest. To overstate the revenues emanating from the agreement with Genuity, Arnold created two phony contracts. In one contract Qwest purported to sell equipment to Genuity at an inflated price, recognizing the revenue immediately, while in the other contract Qwest purportedly sold services to Genuity at a loss and assumed all risk of loss and obsolescence on the equipment purportedly sold in the first contract. The SEC also filed claims arising out of a separate transaction between Qwest and the Arizona School Facilities Board ("ASFB") in which Arnold improperly classified the equipment sales from Qwest to the ASFB as a "bill and hold" transaction to allow Qwest improperly to recognize immediately revenue from the "sale" of equipment that had not been delivered.

1 87. According to the VP NA Sales, Defendant DeNuccio, while he was working at
2 Cisco as the Senior Vice President of Worldwide Service Provider Operations, enlisted Arnold's
3 help with an undisclosed transaction in late 2000 or early 2001. Qwest had purchased \$10-\$20
4 million in products from Cisco that Qwest wanted to return to Cisco. At the time, DeNuccio was
5 head of sales and was under intense pressure because Qwest was suffering from dwindling
6 revenues and deflated stock prices. DeNuccio pressured Arnold not to return the unwanted
7 products to Cisco. Therefore, Qwest, at Arnold's direction, sold its unwanted Cisco products to
8 Genuity, which at that time was on the brink of insolvency and soon thereafter filed for
9 bankruptcy. The products that Qwest purportedly sold to Genuity remained at Qwest, but Qwest
10 nevertheless recognized revenue from the sales.

11 88. The VP NA Sales stated that DeNuccio hired Arnold at Redback with a lucrative
12 \$500,000 package at a time when Redback was "hemorrhaging cash" as a payback for helping
13 DeNuccio meet revenue expectations at Cisco with the Genuity deal.

14 89. Arnold currently is named as an unindicted co-conspirator in a criminal action,
15 and remains under criminal investigation, according to motions filed by the Department of
16 Justice in the SEC's civil action against Arnold and other former Qwest executives.

17 90. In 2001 and 2002, Redback wrote off \$143 million and \$34 million, respectively,
18 of "obsolete inventory." During 2002, there was a significant decrease in demand for Redback's
19 SMS™ equipment because the software and hardware had material defects. Redback did not
20 disclose these problems to shareholders. According to the Redback Sales Director, the SMS™
21 10000 product "did not work." He had arranged for Redback's sale to UUNET of \$3 million
22 worth of the SMS™ 10000 product in 2001, and UUNET's labs had technical problems with the
23 product. Redback had agreed to allow UUNET to purchase the SMS™ 10000 equipment on a
24 contingency basis under terms that allowed UUNET to return the product for a refund if it did
25 not pass UUNET's lab tests. When the SMS™ 10000 failed UUNET's lab tests, Redback was
26 forced to take the SMS™ 10000 and issue a \$2.9 million credit to UUNET.

27 91. To prevent having to reverse the \$3 million in revenues from the UUNET sales,
28 the Redback Sales Director and one of his supervisors, Defendant Georges Antoun, held a

1 meeting at UUNET in early 2002 to try to convince UUNET to use the \$2.9 million credit to
2 purchase Redback's SmartEdge™ equipment. However, some of the features of the
3 SmartEdge™ product did not work well for UUNET, and the Redback Sales Director told
4 Defendant Antoun that Redback could not ship the SmartEdge™ product to UUNET because it
5 had not been lab tested and approved as required under UUNET's purchasing procedures.
6 Undeterred, Antoun arranged a meeting with UUNET's director of purchasing, Boots Bagby
7 ("Bagby"), who was close friends with Antoun. Defendant Antoun excluded the Redback Sales
8 Director from the meeting, which culminated with Bagby agreeing to UUNET's purchase of the
9 SmartEdge™ equipment with the \$2.9 million credit from Redback, and the product was
10 scheduled to ship in April or May 2002.

11 92. The Redback Sales Director stated that he was shocked that UUNET agreed to
12 purchase the SmartEdge™ equipment. He later understood what happened. Antoun had cut a
13 *quid pro quo* deal with Bagby. Bagby's son was hired as a sales person in Redback's Dallas,
14 Texas office, notwithstanding his complete lack of credentials necessary for the position.

15 93. In October 2002, Redback introduced an updated version of the Company's
16 SMS™ 10000 product, which was called the "SMS™ 10000 SL." The Redback Sales VP stated
17 that "like a fool" he directed engineers to go to Qwest's warehouse to implement the upgrade to
18 the millions of dollars worth of SMS™ 10000 equipment that continued to waste away in
19 Qwest's warehouse. He later understood that Qwest had no use for and had never intended to
20 implement any of the SMS™ products into its network and that his attempts to update the
21 equipment were futile.

22 94. In February 2003, Redback disclosed that Defendant Arnold had been sued by the
23 SEC relating to his activities while employed at Qwest. The Company also disclosed that the
24 SEC was examining certain transactions between Redback and Qwest that were entered into
25 prior to 2002. The SEC later that month filed civil fraud charges against Arnold and others at
26 Qwest, charging them with violations of the federal securities laws.

27 95. Qwest could no longer engage in the illicit *quid pro quo* deals with Redback, and
28 so Redback lost its largest source of revenue. With faulty products, stagnant sales and declining

1 revenues, Redback's stock sank below \$1 per share, and NASDAQ warned that Redback would
2 be delisted.

3 96. The Company failed to restructure its huge and growing debt and on November 3,
4 2003, Redback filed a pre-packaged bankruptcy plan of reorganization under Chapter 11.
5 Through the Company's bankruptcy reorganization, Redback eliminated \$467 million of debt to
6 Convertible Noteholders and executed the approximate 73:1 reverse stock split. After emerging
7 from bankruptcy in January 2004, Redback had 52 million shares of common stock outstanding,
8 compared to 183 million before its restructuring. Through the complex recapitalization,
9 shareholders' stake in Redback's common stock was reduced to 5%, with the other 95% of the
10 shares created by the reverse split going to former Noteholders.

11 **V. Defendants' False and Misleading Statements Issued During the Class Period**

12 97. Beginning prior to Redback's IPO, Redback gave stock in Redback, or warrants in
13 companies Redback was acquiring, to executives at Qwest and other telecommunications
14 companies in exchange for those companies' commitments to purchase Redback's products.
15 From the start of the Class Period, Redback reported product sales and revenues which,
16 unbeknownst to investors, were based upon the business Redback had acquired through these
17 secret grants of stock and warrants.

18 98. On April 12, 2000, Redback issued a press release in which it reported record
19 results for the quarter ended March 31, 2000. The April 12, 2000 press release and subsequent
20 Form 8-K filed with the SEC stated, in relevant part, as follows:

21 Net revenues for the first quarter of 2000 were \$34.2 million,
22 compared with \$6.5 million for the same period in the prior year,
23 an increase of 424 percent. Pro forma diluted net income for the
24 first quarter of 2000 was \$5.6 million or \$0.05 per share after
25 giving effect to the Company's one-for-one stock split effective
26 April 3, 2000, and excluding acquisition-related and stock
27 compensation charges and the research and development expense
28 related to Siara Systems' operations. This compares to the first
quarter of 1999 pro forma net loss of \$2.7 million or \$(0.16) per
share on a post-split basis. Before pro forma adjustments, net loss
for the first quarter of 2000 was \$85.2 million or \$(0.96) per share
on a post-split basis compared to a net loss of \$3.8 million or

1 \$(0.23) per share on a post-split basis for the same period in the
2 prior year.

3 “The first quarter of 2000 was a period of expansion for Redback
4 in the subscriber management market,” said Dennis Barsema, chief
5 executive officer at Redback. “Redback continued its momentum
6 in the North American market with both incumbent local exchange
7 carriers (ILECs) and competitive local exchange carriers (CLECs),
8 and announced significant new CLEC wins, including Covad
9 Communications and the newly launched Maverix.net.

10 * * *

11 . . . “In addition to expanding our presence in the subscriber
12 management market, we executed on a major milestone by
13 announcing the SMS 10000, the third platform in our subscriber
14 management product line,” said Vivek Ragavan, president and
15 chief operating officer at Redback. “In the metropolitan optical
16 networking market, Redback took a major step forward by
17 completing its merger with Siara Systems on March 8. The merger
18 gives Redback a strong advantage in terms of developing products
19 and technologies for the New Access Network, including core
20 competencies in IP development, SONET and optical networking,
21 and ASIC design.” . . .

22 Redback also completed a private placement of convertible
23 subordinated notes in the first quarter raising net proceeds of
24 approximately \$486.5 million.

25 99. On May 15, 2000, Redback filed with the SEC its Form 10-Q for the first quarter
26 of 2000 (the “May 2000 10-Q”), signed by Defendant Gentner. The May 2000 10-Q repeated
27 the financial results reported by Redback in its April 12 press release. The Company also
28 explained that it would use its stock as currency for future acquisitions.

100. On May 30, 2000, Redback issued a press release introducing to the market its
new SmartEdge 800 product “for the fast-growing metropolitan optical market.” In order to
demonstrate the immediate success of this new product launch, Redback reported that Qwest
would be a significant purchaser of the SmartEdge 800, stating (and quoting a top Qwest
executive) as follows:

“Qwest is building tremendous momentum for our nationwide all-
optical network initiative,” said David Boast, executive vice

1 president of engineering and operations from Qwest. "To ensure
2 that our aggressive implementation proceeds at unprecedented
3 speed and quality, Qwest intends to use the SmartEdge 800 for
4 deployment in our network. Redback has been working with
Qwest for the past 18 months designing SmartEdge capabilities for
our next generation network."

5 101. In response to this materially false and misleading press release, the Company's
6 stock jumped from \$72.07 on May 26, 2000 to \$82.32 by May 30, 2000, going to \$83.88 the next
7 day, and climbing throughout the month of June 2000 to finally close at \$179.14 on June 30,
8 2000.

9 102. On July 12, 2000, Redback issued a press release reporting record revenues for the
10 quarter ended June 30, 2000. In addition to providing detail on the financial results, the press
11 release and subsequent Form 8-K quoted Barsema, who falsely boasted that Redback's products
12 were "well received by Redback customers." The press release stated:

13 Net revenues for the second quarter of 2000 were \$48.7 million,
14 compared with \$11.1 million for the same period in the prior year,
15 an increase of 340 percent. Pro forma net loss for the second
16 quarter of 2000 was \$5.7 million or \$(0.05) per share, which
17 excludes acquisition-related and stock compensation charges. This
18 compares to the second quarter of 1999 pro forma net loss of \$2.6
19 million or \$(0.06) per share. Before pro forma adjustments, net
20 loss for the second quarter of 2000 was \$286.7 million or \$(2.41)
per share compared to a net loss of \$3.7 million or \$(0.08) per
share for the same period in the prior year. All share and per share
amounts reflect the Company's two-for-one stock split effective
April 3, 2000.

21 "The second quarter of 2000 was a period of strong execution for
22 Redback," said Dennis Barsema, chief executive officer of
23 Redback Networks. "The company continued its momentum in the
24 metropolitan optical networking market with the launch and first
25 production shipments of the SmartEdge 800," stated Barsema.
26 "The SmartEdge platform has been well received by Redback
27 customers and prospects, and we have received multi-million
28 dollar orders from both carriers and service providers." Redback
completed its testing of the SmartEdge platform and shipped its
first production SmartEdge 800 units in the second quarter, with
general availability scheduled for the third quarter.

* * *

“Cerent will have a lot more revenue than Redback’s optical product this year, but following that conference call we are a lot more confident in [Redback’s] ability to become more prominent in that market,” says Conrad Leifur, analyst with U.S. Bancorp Piper Jaffray.

“The [SmartEdge 800] was an interesting product from an architectural perspective, but it had development risk,” said Leifur. “Now they’ve shown it’s being deployed in networks.”

Redback officials have raised their “guidance” numbers on the SmartEdge product line with financial analysts, indicating they foresee an increase in sales growth. They believe the company can ship \$10 million worth of SmartEdge products in the next quarter and \$150 million during 2001, says Leifur.

Redback officials confirmed that details about a Qwest purchase order for a number of SmartEdge products are forthcoming. One Redback spokesperson described the number of SmartEdge units involved as “North of dozens but South of thousands.” The product lists for between \$70,000 and \$150,000, depending on the configuration.

* * *

But Redback’s rising visibility at Qwest may mean the telecom engineers are taking a closer look at the IP services promised for the SmartEdge. The product is designed to include seven application specific integrated circuits (ASICs), four of which handle Sonet and TDM capabilities (available now) and three of which will handle IP services (not yet available). The IP services capabilities set the SmartEdge product apart from Cisco’s offering.

106. As the Lightreading.com article demonstrated, the defendants’ fraud had its intended effect on the market. The phony deals with Qwest had provided credibility to Redback and created the illusion of huge demand for and sales of Redback’s products.

107. On July 21, 2000, the Company filed a Form S-3/A with the SEC completing the registration of its 5% Convertible Subordinated Notes due April 1, 2007. The Prospectus was signed by Defendants Gentner, Ragavan, Barsema, Khosla, and Lamond. Redback identified

1 Qwest in the Registration Statement as a company that had purchased Redback's products and
 2 services. In the Registration Statement, the Company described how "one of the largest digital
 3 line providers in the world" – which investors knew was Qwest – was utilizing the Company's
 4 products:

5 An unregulated affiliate of an incumbent local exchange carrier
 6 had been operating trials of its digital subscriber line Internet
 7 access service in a limited number of communities and households
 8 for over a year and planned to announce a much broader service
 9 deployment and breakthrough pricing levels. The affiliate needed
 a highly scalable and production-proven solution to handle the
 massive demand it expected to receive for its services.

10 The affiliate selected our SMS products as the subscriber
 11 management platform to aggregate subscriber traffic in its service.
 12 Today, this provider is one of the largest digital subscriber line
 13 providers in the world, with very high volumes of traffic passing
 14 through its SMS platforms every day. Our SMS products are
 15 deployed in the affiliate's digital subscriber line-enabled subscriber
 aggregation points to manage live traffic from many thousands of
 subscribers, and the size of the deployment continues to grow
 every month.

16 108. On August 14, 2000, Redback filed with the SEC its Form 10-Q for the second
 17 quarter of 2000 (the "August 2000 10-Q"), signed by Defendant Gentner. The August 2000
 18 10-Q repeated the financial results Redback reported in its July 12 press release.

19 109. In response to the materially false and misleading statements contained in the
 20 Company's 10-Q, the Company's stock jumped from an August 14, 2000 close of \$146.59 to a
 21 closing price of \$150.09 on August 15, 2000.

22 110. All of the above statements by the defendants were false and misleading. From
 23 the Company's first revenue announcement in the Class Period on April 12, 2000 through the
 24 Company's August 2000 10-Q, the defendants misrepresented the terms of the Siara merger (by
 25 failing to disclose the provision requiring the transfer of warrants to Qwest executives) and
 26 falsely stated the Qwest intended to buy and use Redback's products, when the defendants knew
 27 that Qwest did not need or want Redback's products, but purchased them only because Redback
 28

1 had given Qwest executives “friends and family” shares of Redback, and Siara warrants, as
2 payments for Qwest’s business.

3 111. In another attempt to obtain purchase orders from Qwest, Redback purchased
4 services it did not want or need from a Qwest affiliate to obtain Qwest’s reciprocal purchase of
5 products from Redback, which Qwest did not want or need. The defendants used this next facet
6 of their fraudulent scheme to report artificially inflated revenues at Redback, which, as the
7 defendants intended, resulted in an artificial inflation of Redback’s stock price.

8 112. On September 25, 2000, Qwest announced that Qwest Cyber.Solutions LLC
9 (“QCS”), deemed by Qwest to be the largest enterprise Application Service Provider (“ASP”),
10 had been awarded a five-year contract worth \$18 million from Redback. QCS is a joint venture
11 between Qwest and KPMG Consulting.

12 113. On October 11, 2000, the Company issued a press release announcing its financial
13 results for the third quarter ended September 30, 2000. In the October 11, 2000 press release and
14 subsequent Form 8-K, the Company reported huge increases in its revenues, stating as follows:

15 Redback Networks, Inc., leading provider of advanced networking
16 solutions, today reported record revenues for the quarter ended
17 September 30, 2000, as well as its first profit on a pro forma basis
since closing its merger with Siara Systems.

18 Net revenues for the third quarter of 2000 were \$80.6 million,
19 compared with \$20.6 million for the same period in the prior year,
20 an increase of 291 percent. Pro forma net income for the third
21 quarter of 2000 was \$3.2 million or 0.02 per share diluted, which
22 excludes acquisition-related and stock compensation charges. This
23 compares to the third quarter of 1999 pro forma net loss of
24 \$569,000 or \$(0.01) per share. Before pro forma adjustments, net
loss for the third quarter of 2000 was \$308.1 million or \$(2.50) per
share compared to a net loss of \$1.6 million or \$(0.02) per share
for the same period in the prior year.

25 114. Defendant Ragavan was quoted in the October 11 press release (filed with the
26 SEC in an 8-K on October 13, 2000) as stating:

27 “The Company continued its momentum in the metropolitan
28 optical networking market with full production shipments of the
SmartEdge 800,” said Ragavan. The platform has been well

1 received by Redback customers and prospects, and the Company
2 continues to receive multi-million dollar orders from both carriers
3 and service providers, as well as a significant number of system
4 trials globally. "In the subscriber management market, Redback
5 was buoyed by strong demand across our complete line of SMS
6 platforms," said Ragavan, "with particular demand and resulting
7 deployments for the SMS 10000."

8 115. The materially false and misleading statements contained in the Company's
9 October 11, 2000 press release and its October 13, 2000 Form 8-K drove up the Company's
10 stock price, as had other prior false statements by the Company and the Individual Defendants.
11 Between October 10, 2000 and October 16, 2000, the Company's stock price rose from \$120.57
12 to \$138.76.

13 116. On November 13, 2000, Redback filed with the SEC its Form 10-Q (the
14 "November 2000 10-Q") for the third quarter of 2000 (the period ending September 30, 2000) in
15 which it reported the financial results previously reported in the Company's October 11, 2000
16 press release. Redback also reported that during that quarter (the third quarter of 2000), Qwest
17 accounted for 24% of Redback's total revenue.

18 117. In a November 13, 2000 press release, the Company announced that Defendant
19 Gentner would retire in the first quarter of 2000 "due to family medical issues." The Company
20 also stated that "due to strong business demand" its financial figures released on October 11,
21 2000 "remain[] unchanged."

22 118. On November 14, 2000, the Company filed a Form 8-K with the SEC attaching its
23 "unaudited proforma combined financial data for the nine months ended September 30, 2000,
24 that presents the effect of the merger between Redback and Siara . . . as if the merger occurred on
25 January 1, 2000."

26 119. The Company also filed a Form S-3 on November 14, 2000 in which it registered
27 2,440,526 shares of its common stock for use in the acquisition of Abatis. The Company
28 repeated statements contained in prior filings regarding the importance of the timing and amount
of its sales to its reported revenues, and the concentration of sales in the hands of a few

1 customers. Redback identified Qwest as contributing 24% to the Company's revenues in its
2 third quarter, more than any other customer.

3 120. The materially false and misleading statements contained in the November 2000
4 10-Q, the November 14, 2000 Form 8-K, and the November 14, 2000 Form S-3 caused the
5 Company's stock price to rise from \$72.76 on November 13, 2000 to \$79.95 on November 15,
6 2000.

7 121. On January 17, 2001 the Company issued a press release announcing its financial
8 results for both the fourth quarter and year ended December 31, 2000. The press release and
9 subsequent 8-K stated, in relevant part, as follows:

10 Redback Networks, Inc., leading provider of advanced networking
11 solutions today reported record revenues for the quarter ended
12 December 31, 2000, as well as its a profit of \$.05 [sic] per share
diluted on a pro forma basis.

13 Net revenues for the fourth quarter of 2000 were \$114.6 million,
14 compared with \$26.1 million for the same period in the prior year,
15 an increase of 339 percent. Pro forma net income for the fourth
16 quarter of 2000 was \$7.8 million or \$0.05 per share diluted, which
17 excludes acquisition-related and stock compensation charges. This
18 compares to the fourth quarter of 1999 pro forma net income of \$2
19 million or \$0.02 per share diluted. Before pro forma adjustments,
net loss for the fourth quarter of 2000 was \$327.6 million or
\$(2.47) per share compared to a net income of \$1.2 million or
\$(0.01) per share for the same period in the prior year.

20 For fiscal year 2000, net revenues were \$278.0 million, an increase
21 of 333 percent from the \$64.3 million posted in 1999. Pro forma
22 net income for the fiscal year was \$6.8 million or \$0.04 per share
23 diluted, which excludes acquisition-related and stock
24 compensation charges. Before pro forma adjustments, net loss for
fiscal 2000 was \$1.0 billion or \$(8.68) per share compared to net
loss of \$7.9 million or \$(0.15) per share for the prior year.

25 122. The January 17, 2001 press release quoted Defendant Ragavan as boasting about
26 the Company's record revenue and net income as follows:

27 "Redback continued to achieve key objectives during the fourth
28 quarter of 2000," said Vivek Ragavan, chief executive officer and
president of Redback. "From a financial perspective, we delivered

another profitable quarter with record revenue and net income. Equally important was the strong global demand for both our next generation products, the SMS 10000 and SmartEdge 800, as well as our industry-standard SMS 500 and SMS 1800 subscriber management systems. We continue to consolidate our market position as a leading vendor of broadband subscriber management systems and next-generation metro optical solutions.”

During the quarter, the company expanded its global presence with new distribution agreements in Europe and Asia. International revenue grew 121 percent sequentially, reflecting design wins at Korea Telecom and Belgacom S.A., among others. “The international markets are in the early phases of implementing their broadband access strategies,” remarked Ragavan. “With global customer base and growing international presence, our strong cash position and powerful product portfolio, we begin 2001 well positioned to capitalize on the coming migration to next generation broadband and metro optical networks.”

123. These materially false and misleading statements caused an artificial inflation of the Company’s stock and further caused analysts to overvalue Redback’s stock. A January 18, 2001 Research Report by Morgan Stanley rated Redback as “outperform,” in part because of the Company’s new relationship with Qwest which generated “greater than 10% of [Redback’s] quarterly revenues.”

124. All of the above statements by the defendants were false and misleading. From the September 25, 2000 announcement of the QCS deal through the January 17, 2001 press release, the defendants fraudulently concealed that Redback had no need for QCS’s services, but was purchasing them only to obtain Qwest’s reciprocal agreement to purchase \$20 million of Redback’s products. As Ragavan and the other defendants knew, Redback planned to report, and later did report, revenues based upon Qwest’s purchases from Redback made solely in exchange for Redback’s agreement to purchase web-hosting services from QCS.

125. The purported “strong demand” for Redback’s products was an illusion, created by outright bribes to and bogus “round trip” deals with Qwest and its executives. In fact, Qwest did not perform its standard verification and laboratory tests on Redback’s products to determine if they worked and would be useful to Qwest, as Qwest had no intention of ever using those

1 products. The defendants kept these facts concealed from investors. Also concealed was the fact
2 that, as stated by a former Redback Sales VP, the SMS™ products that Qwest was “purchasing”
3 were “unstable” and would not meet Qwest’s standards, had Qwest bothered to test the products.
4 As the Individual Defendants and Qwest knew, Qwest was simply storing Redback’s products in
5 a warehouse, and building inventory would likely lead to drastically reduced sales to Qwest. The
6 Individual Defendants also knew that Redback’s new SmartEdge™ product had not been fully
7 developed and so would not be available for sale until late in 2001, and, therefore, that
8 Redback’s sales and revenues would be adversely affected.

9 126. Finally, Redback’s financial reporting in the third quarter of 2000 and throughout
10 the Class Period was materially false because Redback was not properly accounting for the
11 warrants it was giving Qwest executives in exchange for sales contracts. As a result of the
12 defendants’ fraud, Redback’s stock price was artificially inflated, enabling the Individual
13 Defendants to sell their Redback stock at inflated prices, and enabling the Company to complete
14 its acquisition of Abatis.

15 127. The defendants continued to misrepresent Redback’s sales to Qwest and the
16 Company’s revenues throughout 2001.

17 128. On February 5, 2001, Redback announced that Qwest had agreed to a “multi-year,
18 multi-million dollar purchase of the Redback SmartEdge 800.” The press release and subsequent
19 Form 8-K quoted Ragavan and stated, in part, as follows:

20 Qwest plans to deploy the SmartEdge 800 multi-service optical
21 platform as part of its strategy to enhance and expand local
22 broadband services for businesses and consumers in key
metropolitan markets.

23 The SmartEdge 800 features high port densities to efficiently
24 aggregate Internet Protocol (IP) and traditional time division
25 multiplexing (TDM) traffic, delivering operational efficiencies for
Qwest and simplifying the migration to IP for customers.

26 “We’re pleased to extend our successful relationship with Redback
27 to accelerate the delivery and enhance the efficiency of our IP-
28 based metropolitan networks,” said Augie Cruciotti, Qwest’s
executive vice president of national local networks. “We look

1 forward to continuing our relationship with Redback to further
2 improve service for our customers.”

3 “Since embarking on the design of the SmartEdge 800, Redback
4 has strongly believed that a successful metropolitan optical device
5 must support providers delivering both TDM as well as IP-based
6 services,” said Vivek Ragavan, Redback’s president and chief
7 executive officer. As a result, we are very pleased to be a part of
8 Qwest’s all-optical metro network initiative.”

9 129. The effect of this materially false and misleading statement caused the Company’s
10 stock price to rise from its February 2, 2001 close of \$40.25 to \$44.25 by the close on February
11 5, 2001.

12 130. On February 9, 2001, the Company issued a press release announcing the
13 departure of Defendant Kruep, “who has accepted the position of CEO at a start-up company.”
14 Defendant Kruep was replaced by Richard Bibb as the Senior Vice President of Worldwide
15 Sales. Richard Bibb reported directly to Defendant Ragavan.

16 131. On February 6, 2001, the Company filed a Form S-8 with the SEC, registering the
17 80,000 shares acquired under a written compensatory agreement with Defendant Miskovetz at a
18 price of \$45.97 per share. The Registration Statement was signed by Defendants Ragavan, Wolf,
19 Barsema, Garg, Lamond, Khosla and Kurtz. The Registration Statement incorporated all of the
20 materially false and misleading statements in the May, August and November 2000 10-Qs, and
21 the Company’s Forms 8-K filed with the SEC on March 20, 2000, July 20, 2000, August 2,
22 2000, October 12, 2000, October 13, 2000, January 18, 2001 and January 25, 2001.

23 132. On April 2, 2001, Redback filed its Form 10-K for the year ended December 31,
24 2000 (the “2000 10-K”). The 2000 10-K repeated the financial results for the fourth quarter of
25 2000 and for the fiscal year ended December 31, 2000 first reported in Redback’s January 17,
26 2001 press release. Defendants Ragavan, Wolf, Barsema, Garg, Haque, Khosla, Lamond and
27 Kurtz signed the 2000 10-K.

28 133. Redback explained in the 2000 10-K that in the fourth quarter of 2000 and for the
entire 2000 fiscal year, Qwest accounted for 18% and 15%, respectively, of Redback’s total
revenue, more than any other company.

1 134. The 2000 10-K contained a Report of Independent Accountants, signed by
2 Defendant PwC, stating that:

3 In our opinion, the consolidated financial statements listed in the
4 accompanying index present fairly, in all material respects, the
5 financial position of Redback Networks Inc. and its subsidiaries at
6 December 31, 2000 and 1999 and the results of their operations
7 and their cash flows for each of the three years in the period ended
8 December 31, 2000 in conformity with accounting principles
9 generally accepted in the United States of America. In addition, in
10 our opinion, the financial statement schedule listed in the
11 accompanying index presents fairly, in all material respects, the
12 information set forth therein when read in conjunction with the
13 related consolidated financial statements. These financial
14 statements and financial statement schedule are the responsibility
15 of the Company's management; our responsibility is to express an
16 opinion on these financial statements and financial statement
17 schedule based on our audits. We conducted our audits of these
18 statements in accordance with auditing standards generally
19 accepted in the United States of America, which require that we
20 plan and perform the audit to obtain reasonable assurance about
21 whether the financial statements are free of material misstatement.
22 An audit includes examining, on a test basis, evidence supporting
23 the amounts and disclosures in the financial statements, assessing
24 the accounting principles used and significant estimates made by
25 management, and evaluating the overall financial statement
26 presentation. We believe that our audits provide a reasonable basis
27 for our opinion.
28

19 135. On April 11, 2001, the Company issued a press release announcing its financial
20 results for its first quarter ended March 31, 2001. The press release and subsequent Form 8-K
21 stated, in relevant part, as follows:

22 Net revenue for the first quarter of 2001 was \$90.9 million,
23 compared with \$34.2 million for the same period in the prior year,
24 an increase of 166 percent. Pro forma net loss for the first quarter
25 of 2001 was \$18.4 million or \$0.13 per share, which excludes
26 acquisition-related charges, stock compensation charges,
27 restructuring and certain inventory charges. This compares to pro
28 forma diluted net income of \$0.05 per share for Q4 2000 and \$0.01
per share for the same period one year ago. Before pro forma
adjustments, net loss for the first quarter of 2001 was \$400.5
million or \$2.92 per share compared to a net loss of \$85.2 million
or \$0.96 per share for the same period in the prior year.

1 136. The materially false and misleading statements contained in the April 11, 2001
2 press release caused the Company's stock price to rise from \$15.84 to \$17.70, an increase of
3 \$1.86, or 12%, between April 11, 2001 and April 12, 2001.

4 137. Not only was the investing public misled, so were analysts. Wells Fargo Van
5 Kasper ("Wells Fargo") maintained its strong buy rating on Redback in its April 12, 2001
6 research report, in part, because of the addition of Qwest as a customer. Although the research
7 report pointed out that "[m]anagement noted that several of its larger customers delayed
8 deployments for both SMS and SmartEdge products," defendants knew that there was no delay
9 on the part of Qwest because, in fact, Qwest would not be purchasing any Redback products
10 whatsoever. Moreover, defendants failed to disclose that Redback had not developed certain
11 Router capabilities for the SmartEdge™ product that had been promised to customers.
12 Redback's Board and senior management had known since August or September 2000 that the
13 product would not be available and intentionally or with deliberate recklessness failed to revise
14 Redback's sales and revenue forecasts for 2001, which included hundreds of millions of dollars
15 in revenues based on the new product.

16 138. On April 17, 2001, the Company filed a Form S-3/A Registration Statement and
17 Prospectus for a secondary offering of 2,440,526 shares of the Company's common stock. The
18 Prospectus stated that Qwest accounted for 18% of the Company's revenue, more than any other
19 Company. Defendants Wolf, Ragavan, Barsema, Garg, Haque, Khosla, and Lamond signed the
20 Registration Statement filed in connection with the offering.

21 139. The April 17, 2001 Registration Statement contained the consent of PwC to the
22 incorporation of the Company's 2000 10-K and the reference to PwC as "Experts".

23 140. The Company's share price rose from \$18.80 on April 17, 2001 to \$19.93 on
24 April 18, 2001, a gain of \$1.13, or 6%, as a result of the materially false and misleading
25 statements contained in the Company's April 17, 2001 filings.

26 141. On May 15, 2001, the Company filed with the SEC a Form 10-Q for the quarter
27 ended March 31, 2001 (the "May 2001 10-Q"). The May 2001 10-Q was signed by Defendant
28

1 Wolf. It reiterated the financial results previously announced on April 11, 2001, and
2 acknowledged:

3 In each of the periods presented, we have had at least one customer
4 that accounted for 10% or more of our total revenue in the quarter.
5 In the first quarter of 2001, Qwest Communications International
6 Inc. . . . accounted for 28% . . . of our total revenue. For the twelve
7 months ended December 31, 2000, sales to Qwest
8 Communications International Inc. . . . accounted for 15% of our
9 total revenue.

10 142. The filing of the May 2001 10-Q drove the Company's stock price higher – it rose
11 \$3.40 between May 15, 2001 and May 21, 2001, going from \$15.60 to \$19.00, a 22% increase.

12 143. On May 21, 2001, Redback announced that Defendant Ragavan had resigned from
13 the Company. In the press release, Defendant Lamond confirmed that “[t]he current business
14 and the product schedules continue to be on track with the guidance that we have previously
15 given.”

16 144. On July 11, 2001, the Company issued a press release announcing its financial
17 results for its second quarter ended June 30, 2001. The press release and subsequent Form 8-K
18 stated, in relevant part, as follows:

19 Net revenue for the second quarter of 2001 was \$59.4 million,
20 compared with \$48.7 million for the same period in the prior year.
21 Pro forma net loss for the second quarter of 2001 was \$37.0
22 million or \$0.26 per share, compared to pro forma net loss of \$0.13
23 per share for Q1 2001 and \$0.05 per share loss for the same period
24 one year ago. The Q2 GAAP loss, which includes acquisition-
25 related charges, stock compensation charges, restructuring charges
26 and charges for inventory and other impairments, was \$460 million
27 or \$3.26 per share. During Q2 the Company determined that based
28 on the current business outlook, the carrying value of certain assets
would not be recoverable and should be adjusted. As a result, the
Company recorded GAAP reserves and write-offs that totaled
\$74.9 million for inventory and related claims and commitments in
excess of projected demand, as well as investment impairments. In
addition, under a headcount reduction program announced in April
2001, the Company recorded a charge of \$3.9 million for
severance and related benefits.

1 145. On August 14, 2001, the Company filed with the SEC a Form 10-Q for its second
2 quarter ended June 30, 2001 (the "August 2001 10-Q"). The August 2001 10-Q, which was
3 signed by Defendant Wolf, reiterated the financial results previously announced on July 11,
4 2001, and, as in prior filings, noted the importance of sales to key customers to Redback's
5 revenue. The filing stated that Qwest accounted for 27% of the Company's total revenue for the
6 first six months of 2001 and 15% of Redback's revenue for all of 2000.

7 146. On August 17, 2001, the Company offered former senior Cisco executive Kevin
8 DeNuccio employment with the Company. The offer letter (available on Findlaw.com) revealed
9 that the Company provided Defendant DeNuccio with a base salary of \$500,000 as well as \$2.1
10 million in restricted stock, 6.5 million options to buy shares at \$4.17 each, and a \$3 million
11 signing bonus. These terms were confirmed in Redback's 2001 10-K. On August 29, 2001,
12 Redback announced that DeNuccio had joined Redback as President and Chief Executive
13 Officer. DeNuccio also became a member of Redback's Board, while Pierre Lamond remained
14 Chairman of the Board.

15 147. On October 10, 2001, the Company issued a press release announcing its financial
16 results for its third quarter ended September 30, 2001. The press release and subsequent Form 8-
17 K stated, in relevant part, that:

18 Net revenue for the third quarter of 2001 was \$37.0 million,
19 compared with \$59.4 million in the prior quarter and \$80.6 million
20 for the same period in the prior year. Pro forma net loss for the
21 third quarter of 2001 was \$40.9 million or \$0.28 per share,
22 compared to pro forma net loss of \$0.26 per share for Q2 2001 and
 \$0.02 per share net income, using fully diluted shares, for the same
 period one year ago.

23 148. On October 10, 2001, the Company filed a Form S-8 Registration Statement with
24 the SEC, signed by Defendants DeNuccio, Wolf, Garg, Haque, Khosla, Lamond and Kurtz. The
25 Registration Statement incorporated by reference the Company's prior May 2001 and August
26 2001 10-Qs and it registered 10.7 million shares of Redback stock, including 6,500,000 shares at
27 \$1.675 by Defendant DeNuccio pursuant to a Stock Option Agreement.
28

1 149. On November 13, 2001, Redback filed its Form 10-Q (the “November 2001 10-
2 Q”) with the SEC. The Company’s November 2001 10-Q was signed by Defendant Wolf and
3 repeated the Company’s financial results announced on October 10, 2001. The November 2001
4 10-Q stated that Qwest accounted for 22% of the Company’s revenues for the first nine months
5 of 2001 and 15% of its revenues for all of 2000, more than any other company.

6 150. All of the above statements by the defendants were false and misleading. From
7 Redback’s February 5, 2001 announcement of its “multi-year, multi-million dollar” agreement
8 with Qwest, through the rest of 2001, the defendants fraudulently misrepresented the Company’s
9 business deals with Qwest (and the Company’s revenues), and falsely concealed that Qwest had
10 no plans to purchase Redback’s Smart Edge™ 800 product or any other Redback product absent
11 Redback’s reciprocal agreement to pay \$7 million for IRU bandwidth on Qwest’s network which
12 Redback did not want or need and which it could not even unload on any third parties. All of the
13 above statements in 2001, like the Company’s previous filings in the Class Period, were false
14 and misleading, principally in their failure to disclose that the Company was, in effect, paying for
15 Qwest’s business, through Redback’s transfers of securities (of Redback and Siara) to Qwest,
16 and Redback’s purchases of web-hosting services and Qwest products that Redback would not
17 have purchased but for Qwest’s agreement to purchase Redback products in exchange. In
18 disclosing that a large portion of the Company’s revenues were from sales to Qwest, Redback
19 was obliged to disclose that Qwest had no demand for Redback’s products, and, in fact,
20 Redback’s products were not functioning properly, and were not even being tested by Qwest
21 pursuant to its customary business practices. Unbeknownst to investors, Qwest was
22 “purchasing” useless and “unstable” Redback products and storing them in a warehouse, because
23 Redback had agreed to buy certain Qwest products and services, or because Redback had simply
24 paid Qwest executives for their allegiance.

25 151. As a result of Redback’s secret and illicit scheme with Qwest, Redback’s stock
26 price was artificially inflated. Additionally, the Company’s financial statements were not
27 prepared in accordance with GAAP, as represented by PwC, nor had PwC completed its audit in
28 accordance with GAAS. Had PwC properly audited Redback’s books and records, it would have

1 investigated the Company's largest sales accounts – to Qwest – and discovered that these sales
2 were not the result of a real demand for Redback's products, but rather, the sales had been
3 purchased by Redback through payments of securities to Qwest executives, or payments to
4 Qwest and Qwest affiliates which were, in essence, gifts, as the products and services received
5 by Redback in return were useless to Redback.

6 152. Throughout the remainder of the Class Period, Redback continued to report
7 success from revenues and product demand which were artificially inflated by its improper deals
8 with Qwest, and failed to disclose the secret *quid pro quo* deals in which Redback purchased
9 services and products from Qwest that Redback did not want or need, so that Redback's money
10 would be "round-tripped" and returned to Redback through Qwest's purchases of Redback's
11 products that Qwest did not want or need.

12 153. Defendant Lamond and the other Board members and executives also failed to
13 disclose to shareholders and investors that router capabilities for the Company's SmartEdge™
14 product had been significantly delayed in development and production, and consequently,
15 Redback had no ability to meet its announced target sales and revenues.

16 154. In January 2002, Redback hired Defendant Arnold. Prior to joining Redback,
17 Defendant Arnold held several positions at Qwest, including Senior Vice President of Global
18 Business Markets, Senior Vice President of General Business and Regional Vice President of
19 National Accounts, in which capacities Arnold structured and negotiated sales of Qwest products
20 that would later be found to be improper. Defendants failed to disclose that Defendant Arnold at
21 that time was the subject of an SEC investigation into allegations that he and others at Qwest
22 improperly inflated Qwest's revenues by approximately \$144 million in 2000 and 2001 through
23 improper sales in order to meet earnings projections and revenue expectations.

24 155. On January 16, 2002, the Company issued a press release announcing its financial
25 results for its fourth quarter of fiscal year 2001 and year ended December 31, 2001. The press
26 release and subsequent Form 8-K reported, in relevant part, as follows:

27 Net revenue for the fourth quarter of 2001 was \$40.2 million,
28 compared with \$37.0 million in the prior quarter. For the full fiscal
year 2001 net revenue was \$227.5 million compared to \$278.0
million in fiscal year 2000.

1 The GAAP net loss for the fourth fiscal quarter was \$0.67 per
2 share compared to a loss of \$21.71 in Q3 2001. For fiscal 2001 the
3 GAAP loss was \$28.78 per share compared to an \$8.68 loss in
4 fiscal 2000. The GAAP loss in fiscal Q3 2001 included a write
5 down of goodwill aggregating \$2.7 billion.

6 Pro-forma loss for the quarter was \$0.20 per share compared to a
7 loss of \$0.28 in fiscal Q3. Pro forma results exclude certain
8 impairment charges, restructuring charges, stock and other
9 compensation related charges, amortization of intangibles and
10 other items

11 156. On March 11, 2002, Qwest issued a press release acknowledging that the SEC
12 was investigating its revenue recognition practices, including its sales of IRUs and the sale of
13 equipment by Qwest to customers from which Qwest bought Internet services or to which it
14 contributed equity financing. Because Qwest was Redback's largest customer, PwC knew or
15 with deliberate recklessness disregarded (because it failed to investigate) that Qwest's IRU sale
16 to Redback in 2001 was an improper reciprocal transaction of the kind being investigated by the
17 SEC.

18 157. On March 27, 2002, the Company filed its 2001 10-K, which was signed by
19 Defendants DeNuccio, Wolf, Garg, Hague, Khosla, Lamond and Kurtz. The 2001 10-K
20 reiterated the financial numbers contained in the January 16, 2002 press release, and reported
21 that during 2001, Redback sold \$41.5 million of goods and services to Qwest, representing 18%
22 of the Company's revenue that year.

23 158. The 2001 10-K contained a Report of Independent Accountants signed by
24 Defendant PwC. The audit opinion contained substantially the same language as in the audit
25 report contained in the 2000 10-K, noting, in particular, that Redback's financial statements had
26 been prepared in accordance with accounting principles generally accepted in the United States
27 (or GAAP) and audited by PwC in accordance with auditing standards generally accepted in the
28 United States (or GAAS).

159. The 2001 10-K also reported that:

In 2000, we sold an aggregate of approximately \$8 million of
goods and services to Broadband Office, Inc. One of our directors
is a partner in an entity that owns more than 10% of Broadband's

1 outstanding stock. In 2001 and 2000, we sold an aggregate of
2 approximately \$41.5 million and \$41 million, respectively, of
3 goods and services to Qwest Communications, Inc. ("Qwest") and
4 purchased an aggregate of approximately \$10.5 million and \$3
5 million, respectively, of goods and services from Qwest. A
6 director of Redback is also a director of Qwest.

7
8 160. In an April 2, 2002 article on Lightreading.com, Qwest was accused of engaging
9 in improper business transactions with its vendors. The article stated:

10 During boom times, Qwest and other aggressive carriers such as
11 Williams Communications Group hedged their bets on cutting-
12 edge technology – and helped enrich their executives – by getting
13 discounted shares from startups while they evaluated equipment.
14 Qwest was among the most startup-friendly of them all. But as the
15 NASDAQ bubble popped and the IPO market shut down, such
16 strategies lost their allure.

17 A prime example of this has been the tight relationship between
18 Kleiner Perkins Caufield & Byers partner Vinod Khosla and
19 Qwest. Khosla, who is a board member of Qwest, also held board
20 positions at Corvis Corp., CoSine Communications Inc., Cerent
21 (now owned by Cisco), Juniper Networks Inc., and Redback
22 Networks Inc. while each of these equipment vendors negotiated
23 deals with the carrier.

24 Here's an example of how it worked with CoSine
25 Communications: Qwest helped CoSign design, test, and analyze
26 its equipment, a Qwest spokesman confirmed. In return, CoSine
27 let some senior Qwest executives – including former executive VP
28 of corporate development, Marc Weisberg; executive VP and
general counsel Drake Tempest; and executive VP and chief
strategy officer Lewis Wilks – buy "friends and family" shares
before the startup went public.

CoSine went public in 1999 and, in February 2000, it announced
that Qwest had placed a multimillion-dollar purchase order for its
gear.

Also, Qwest got warrants for agreeing to buy Tellium Inc.'s gear.
Qwest executives accepted some \$10 million worth of stock
options from the startup in exchange for being allowed into its
network.

1 161. On April 10, 2002, the Company issued a press release announcing its financial
2 results for its first quarter of 2002. The press release and subsequent Form 8-K reported, in
3 relevant part, as follows:

4 Net revenue for the first quarter of 2002 was \$40.6 million,
5 compared to \$40.2 million in the prior fiscal quarter and \$90.9
6 million for the same quarter in the prior year.

7 The GAAP net loss for the quarter ended March 31, 2002 was
8 \$0.23 per share compared to a loss of \$0.67 in fiscal Q4 2001 and
\$2.92 in fiscal Q1 2001.

9 Pro-forma loss for the quarter was \$0.19 per share compared to a
10 loss of \$0.20 in Q4 2001 and a loss of \$0.13 in the first fiscal
11 quarter of 2001. Pro forma results exclude certain impairment
12 charges, restructuring charges, stock and other compensation
related charges, amortization of intangibles and other items

13 162. On April 10, 2002, Wells Fargo Securities, LLC issued a research report in which
14 it reiterated its strong buy rating on Redback based, in part, on the fact that “Redback has now
15 stabilized its dominant position in the SMS industry. . . [T]hree of the four domestic ILECs
16 (Verizon, Qwest, and SBC) . . . have now bought into the SMS 10000.”

17 163. On April 22, 2002, Redback filed with the SEC a Form 10-Q for the period ended
18 March 31, 2002 (the “April 2002 10-Q”). The April 2002 10-Q, which was signed by Defendant
19 Wolf, reiterated the financial results previously announced on April 10, 2002.

20 164. On July 10, 2002, Qwest announced that the SEC had begun a criminal probe of
21 Qwest.

22 165. On July 10, 2002, the Company issued a press release announcing its financial
23 results for its second quarter of 2002. The press release and subsequent Form 8-K reported, in
24 relevant part, as follows:

25 Net revenue for the second quarter of 2002 was \$40.1 million,
26 compared to \$40.6 million in the prior fiscal quarter and \$59.4
27 million for the same quarter in the prior year.

28 Pro-forma net loss for the quarter was \$0.16 per share compared to
a loss of \$0.19 in Q1 2002 and a loss of \$0.26 in the second fiscal
quarter of 2001.

1 The GAAP net loss for the quarter ended June 30, 2002 was \$0.40
2 per share compared to a loss of \$0.23 in fiscal Q1 2002 and \$3.26
3 in fiscal Q2 2001.

4 166. During the July 10, 2002 Redback earnings conference call, Defendant Wolf
5 stated that the Company "had basically doubled the revenue from [the SMS] 10000 this quarter
6 from two quarters ago." The product breakout for revenues for the Company was "roughly 6
7 million for service, 6 million for SmartEdge™ products and 28 million for SMS." The SMS™
8 10000 made up approximately 60 percent of the sales of SMS products.

9 167. On August 14, 2002, Redback filed with the SEC a Form 10-Q for the period
10 ended June 30, 2002 (the "August 2002 10-Q"). The August 2002 10-Q, which was signed by
11 defendant Wolf, repeated the financial results previously announced on July 10, 2002.

12 168. On September 26, 2002, the Company announced that it expected lower third
13 quarter 2002 results. The press release stated, in relevant part, that:

14 [The Company] expects revenue in the current fiscal quarter
15 ending September 30, 2002 will be approximately, \$15 to \$20
16 million and a pro forma net loss of between \$0.23 and \$0.25 per
share.

17 169. During the September 26, 2002 Redback conference call, Defendant DeNuccio
18 stated, in relevant part, that:

19 [O]ur Q3 shortfall was compounded by the pending transition to
20 the Next Generation SMS 10000 product, which we call
Streamliner, which is scheduled for delivery in Q4.

21 After working with our customers over the last couple weeks, and
22 realizing the cost and margin impact to continue SMS 10000
23 deployment in Q3, we decided to preserve our long-term pricing
24 model and gross margins and wait for the Next Generation delivery
25 of the SMS product, which is expected to be delivered in Q4. With
26 current SMS 10000 sales now accounting for approximately 70
27 percent of overall SMS sales, some customers delayed orders
28 and/or delivery of current SMS 10000s, deciding to wait for the
new technology.

170. Defendants knew this statement was false and misleading because they knew the SMS™ 10000 was “unstable” and not functioning properly and that there was no demand for that product by Qwest, Redback’s largest customer.

171. On October 9, 2002, the Company issued a press release announcing its financial results for its third quarter of 2002. The press release reported, in relevant part, as follows:

Net revenue for the third quarter of 2002 was \$17.4 million, compared to \$40.1 million in the prior fiscal quarter and \$37.0 million for the same quarter in the prior year.

Pro forma net loss for the quarter was \$0.20 per share, compared to a loss of \$0.16 in fiscal Q2 2002 and a loss of \$0.28 in the third fiscal quarter of 2001. Pro forma results exclude certain impairment charges, excess and obsolete inventory charges, restructuring charges, stock and other compensation related charges, amortization of intangibles and other items . . .

The GAAP net loss . . . for the quarter ended September 30, 2002 was \$0.30 per share, compared to a loss of \$0.40 in fiscal Q2 2002 and \$21.71 in the third fiscal quarter of 2001.

172. During the October 9, 2002 Redback earnings conference call, Defendant DeNuccio stated:

We do not believe these numbers reflect a new trend in business activity for Redback. The revenue shortfall was driven by significantly lower SMS sales, which resulted in only seven million in revenue for the quarter, versus our projected 28 million.

* * *

The Redback Board of Directors and management team remain fully committed to achieving cash flow break even in the first half of 2003. . . . Let me reiterate our conviction – number one, we have enough cash to sustain us through the industry downturn; number two, we have a strategy to reach cash flow break even in the first half of 2003 through revenue growth, gross margin improvement and cost-cutting. Number three – we are the only router vendor in the top three that have optimized its product portfolio and operating system with a user to network focus for the network edge, which positioned us right in the sweet spot for being the router vendor of choice to build next generation edge networks for service providers. Finally, that our incumbent customer base

1 continues to be delighted with our quality, our product design and
2 our technical capability and is moving forward with us on both
3 SMS and SmartEdge technology.

4 This was patently false, and DeNuccio knew it, as Qwest was not, as DeNuccio represented,
5 “delighted with [Redback’s] quality.”

6 173. On November 14, 2002, Redback filed with the SEC a Form 10-Q for the period
7 ended September 30, 2002 (the “November 2002 10-Q”). The November 2002 10-Q, which was
8 signed and certified by Defendants DeNuccio and Wolf, repeated the financial results previously
9 announced on October 9, 2002.

10 174. On January 15, 2003, the Company issued a press release announcing its financial
11 results for its fourth quarter of 2002 and fiscal 2002. The press release and subsequent Form 8-K
12 reported, in relevant part, as follows:

13 Net revenue for the fourth quarter of 2002 was \$27.6 million,
14 compared with \$17.4 million in the prior quarter. For the fiscal
15 year 2002, net revenue was \$125.6 million compared to \$227.5
16 million in fiscal year 2001. The company also announced the
restructuring of Redback’s executive team to more appropriately
reflect the size and direction of the company.

17 The GAAP net loss for the fourth quarter of 2002 was \$0.20 per
18 share compared to a net loss of \$0.30 in the prior quarter. For fiscal
19 year 2002 the GAAP net loss was \$1.13 per share compared to a
20 \$28.78 net loss in fiscal year 2001. The GAAP net loss in fiscal
year 2001 included a write down of good will aggregating \$ 2.7
billion.

21 Pro-forma net loss for the fourth quarter was \$ 0.15 per share
22 compared to a net loss of \$0.20 in the prior quarter.

23 175. During the January 15, 2003 Redback earnings conference call, Defendant
24 DeNuccio stated that he was “especially pleased with the company’s cash management. The
25 cash burn during the quarter was 21 million, brings our total cash to 118 million, higher than the
26 range we had forecasted during the last call.” Defendant DeNuccio also announced the
27 imminent departure of Defendant Wolf from Redback.
28

176. The above statements were materially false and misleading because the defendants knew Redback's SMS™ 10000 product was not functioning properly and the reduction in customer orders resulted from problems with the SMS 10000, not with delayed orders. Additionally, the defendants knew that, as the SEC was investigating Qwest's deals with equipment vendors, defendants could no longer purchase Qwest's business with illicit stock transfers and other schemes.

177. On February 25, 2003, the SEC filed civil fraud charges against Defendant Arnold, among other executives at Qwest, charging him with violations of the federal securities laws. The SEC's complaint charged Arnold with artificially inflating Qwest's revenue. The SEC civil suit against Arnold specifically addressed transactions involving sales of Internet equipment and services to the Arizona School Facilities Board and Genuity Inc.

178. The Company filed its Form Def 14A Proxy Statement (the "2002 Proxy Statement") on March 28, 2002, which stated, in relevant part, as follows:

In 2001, Broadband Office, Inc. went into bankruptcy. Kleiner Perkins Caufield & Byers, of which Vinod Khosla, a director of the company is a general partner, owns more than 10% of the outstanding stock of Broadband Office, Inc. Redback is currently a creditor of the bankruptcy estate in the amount of \$1.9 million.

In 2001, Redback sold an aggregate of approximately \$41 million of goods and services to Qwest Communications and purchased an aggregate of approximately \$8 million of goods and services from Qwest Communications. Vinod Khosla, a director of Redback, is also a director of Qwest Communications.

179. On March 31, 2003, the Company filed with the SEC a Form 10-K for the year 2002 (the "2002 10-K"), which was signed and certified by Defendants DeNuccio and Cronan, reaffirming the financial results released on January 15, 2003. The 2002 10-K was also signed by Defendants DeNuccio, Cronan, Garg, Haque, Lamond and Kurtz.

The 2002 10-K reaffirmed that "[d]uring 2001, revenue from Qwest Communications . . . accounted for 18% . . . of our revenue . . . [and d]uring 2000, revenue from Qwest . . . accounted for 15% . . . of our revenue."

1 180. The 2002 10-K contained a Report of Independent Auditors, signed by Defendant
2 PwC. The audit opinion was unqualified and in substantially the same form as the 2000 and
3 2001 10-Ks.

4 181. The 2002 10-K stated that Defendant Arnold was no longer a Redback director,
5 and also stated, in relevant part, as follows:

6 One of our officers is facing a civil SEC lawsuit related to his
7 previous employment.

8 On February 25, 2003, the SEC filed a civil lawsuit against eight
9 current and former officers and employees of Qwest
10 Communications, regarding activities that occurred while each was
11 employed at Qwest. One of the individuals named is Joel Arnold,
12 our Senior Vice President of Field Operations, who was formerly
13 Executive Vice President of Qwest's Global Business Unit. The
SEC is seeking, among other remedies, that Mr. Arnold and four
other defendants be permanently barred from serving as an officer
or director of any public company.

14 Although it is expected that such a civil procedure will take two to
15 three years or longer to be adjudicated, an unfavorable result at the
16 end of such action against Mr. Arnold may result in him being
17 unable to serve as an officer. In addition, Mr. Arnold may be
distracted while defending against the allegations.

18 182. Although the SEC investigation was ongoing, the 2002 10-K failed to mention
19 any investigation, informal or otherwise, by the SEC into Redback's dealings with Qwest
20 although, as Arnold knew, that was, in fact, a subject of the SEC investigation.

21 183. On April 16, 2003, the Company issued a press release announcing its financial
22 results for the first quarter of 2003. The press release reported, in relevant part, as follows:

23 Net revenues for the first quarter of 2003 were \$29.5 million,
24 compared with \$27.6 million for the fourth quarter of 2002 and
\$40.6 million for the first quarter of 2002.

25 GAAP net loss for the first quarter of 2003 was \$24.9 million or
26 \$0.14 per share compared to a net loss of \$34.7 million or \$0.23
27 per share in the first quarter of 2002. Non-GAAP net loss for the
28 first quarter of 2003 was \$23.2 million or \$ 0.13 per share
compared to \$29.0 million or \$0.19 per share in the first quarter of
2002. Non-GAAP results exclude amortization of intangible assets,

1 stock-based compensation, and realized gain on certain
2 investments.

3 184. During Redback's April 16, 2003 Financial Release Conference Call, Defendant
4 DeNuccio stated as follows:

5 First of all, gross margins improved to 46 percent, which
6 represents a 10 percent sequential improvement from Q4. And
7 second, the important improvement in our cash management. We
8 reduced our cash use to only 16 million this quarter, also our
9 lowest in two years leaving our cash balance at 103 million.

10 185. All of the above statements, beginning with the January 16, 2002 press release,
11 and continuing through the 2001 and 2002 10-Ks and interim quarterly reports, and the
12 Company's other filings, press releases and public statements, were false and misleading, and the
13 defendants knew it, as those filings failed to disclose that:

- 14 a. Qwest did not need or want the products it purchased from Redback, and only
15 purchased the products because Redback had transferred securities (in Siara) to
16 Qwest executives, or because Redback agreed to purchase services or products
17 from Qwest (or QCS) that Redback did not want or need;
- 18 b. The SMS system that Qwest was "purchasing" was "unstable" and had not even
19 been tested by Qwest prior to its "purchase";
- 20 c. Qwest was not using the products sold by Redback, but was simply storing them
21 in a warehouse;
- 22 d. Qwest's buildup of its inventory of unwanted Redback products would likely lead
23 to drastically reduced sales to Qwest, or no sales at all, materially impacting
24 Redback's revenues and earnings; and
- 25 e. Redback's financial reporting was materially false because Redback was not
26 properly accounting for the securities it gave the Qwest insiders in exchange for
27 sales contracts, and was not properly accounting for Redback's reciprocal
28 agreements to purchase Qwest products and services.

186. Each of the defendants knew that but for their false and misleading statements and
fraudulent scheme, Redback's stock price would have been much lower and Lead Plaintiffs, and

1 other members of the Class, would not have purchased Redback's stock which, at the time of
 2 each purchase, was artificially inflated by defendants' fraud and false and misleading statements.

3 **The Truth Begins To Emerge And The Company Descends Into Bankruptcy**

4 187. On May 15, 2003, the Company filed its Form 10-Q for the first quarter 2003 (the
 5 "May 2002 10-Q"). The May 2003 10-Q was signed by Defendants Cronan and DeNuccio. It
 6 reaffirmed the financial results announced on April 16, 2003.

7 188. The May 2003 10-Q informed the investing public for the first time that the SEC
 8 was examining certain Qwest transactions involving Redback, stating, in relevant part, as
 9 follows:

10 The Company has been informed that the SEC is examining
 11 various transactions involving Qwest Communications, some of
 12 which were entered into between the Company and Qwest. The
 13 Company is fully cooperating with the SEC regarding this matter.
 14 The transactions of which the Company is aware that are being
 15 reviewed were entered into prior to fiscal year 2002. The
 16 Company cannot predict the duration or outcome of the SEC's
 17 examination.

18 189. On July 7, 2003, the Company announced that on June 23, 2003 it received a
 19 decision from the NASDAQ's Listing Qualifications Panel ("Panel") granting Redback's request
 20 for an exception to the National Market's minimum bid price requirement, as set forth in
 21 NASDAQ Marketplace Rule 4450(a)(5). According to the press release, the Panel decided to
 22 provide Redback with additional time to allow for developments in the SEC's rulemaking
 23 process and that accordingly, Redback had until August 23, 2003 to regain compliance with
 24 NASDAQ's minimum bid price requirement.

25 190. The Company also announced on July 7, 2003 that it had "entered into a lock-up
 26 agreement with holders of 67% of Redback's 5% Convertible Subordinated Notes due 2007
 27 ("Notes") relating to a proposed recapitalization transaction involving a debt for equity
 28 exchange." The press release further stated, in relevant part, that:

"We're very excited that this restructuring will significantly
 improve Redback's balance sheet and cash flows, therefore
 creating financial stability," said Kevin A. DeNuccio, President

1 and CEO of Redback Networks. "This new financial model will
2 increase our ability to innovate and grow."

3 As part of the recapitalization, the Notes will be exchanged for
4 common stock. If all of the Notes are exchanged, the noteholders
5 will receive approximately 95% of the issued and outstanding
6 common stock immediately following completion of the
7 transaction and the existing holders of common stock will initially
8 retain approximately 5% of the issued and outstanding common
9 stock of the company. In addition, Redback's existing common
10 stockholders will receive the right to increase their ownership by
11 approximately an additional 10% of the company's outstanding
12 common stock through the issuance of two types of seven-year
warrants: one for up to approximately 5% of the issued and
outstanding common stock at an exercise price based on a
company enterprise value of \$250 million and one for up to
approximately an additional 5% of the issued and outstanding
common stock at an exercise price based on a company enterprise
value of \$500 million.

13 * * *

14 Completion of the transaction is subject to the completion of the
15 note exchange offer, which requires a minimum tender of 98% of
16 the outstanding principal amount of the Notes, approval of existing
17 stockholders, regulatory approval and other customary conditions.

18 191. In Redback's July 7, 2003 Conference Call, Defendant DeNuccio pointed out that
19 "the Lock-up Agreement . . . provides for the exchange of \$467 million in outstanding debt for
20 common equity." Defendant DeNuccio further stated, in relevant part, that:

21 All in all, by accepting this deal, noteholders will receive common
22 equity and can now participate in the upside of the company as we
23 grow and regain our market leadership. These noteholders have
24 given us a strong vote of confidence by agreeing to take common
equity in return for the elimination of our debt obligations.

25 Stockholders will no longer have \$467 million in debt senior to
26 their interest, and take a long-term view of the company, and once
27 again begin to grow long-term value in our equity.
28

1 192. During the July 7, 2003 conference call, Defendant Cronan pointed out that the
2 lock-up agreement, combined with a reverse stock split shortly thereafter, maintained the
3 Company's eligibility to list on the NASDAQ.

4 193. During this same conference call, Defendant Cronan stated that: "[w]ith two-
5 thirds having agreed to the deal, we could go into a prepackaged reorganization plan if [the note
6 exchange] fails to obtain adequate support."

7 194. On July 16, 2003, the Company issued a press release announcing its financial
8 results for the second quarter of 2003. The press release and subsequent Form 8-K reported, in
9 relevant part, as follows:

10 Net revenue for the second quarter of 2003 was \$22.2 million,
11 compared with \$29.5 million for the first quarter of 2003 and \$40.1
12 million for the second quarter of 2002.

13 GAAP net loss for the second quarter of 2003 was \$51.0 million or
14 \$0.28 per share compared to a GAAP net loss of \$65.1 million or \$
15 0.40 per share in the second quarter of 2002. Non-GAAP net loss
16 for the second quarter of 2003 was \$26.3 million or \$0.15 per share
17 compared to a non-GAAP net loss of \$26.4 million or \$0.16 per
18 share in the second quarter of 2002. Non-GAAP results exclude
19 amortization of intangible assets, restructuring charges, stock-
20 based compensation, realized gain and write-off of certain
21 investments and certain impairment and inventory charges.

22 195. During Redback's July 16, 2003 Earnings Conference Call, Defendant Cronan
23 stated, in relevant part, that the Company's "quarter-end cash stood at \$69.2 million, down \$33.5
24 million from the previous quarter." Defendant Cronan further stated that "of the \$33.5 million,
25 about \$7.6 million was working capital. About \$10.4 was loss from operations, \$2 million for
26 capital purchases and \$13.5 for the interest payments and restructuring."

27 196. On August 6, 2003, the Company filed a Form S-4 Registration Statement
28 containing an offer to exchange up to 47,500,000 post-reverse split shares of common stock for
\$467,500,000 aggregate principal amount of 5% convertible subordinated notes due 2007 and
related accrued interest.

 197. On August 14, 2003, the Company filed its Form 10-Q for the second quarter of
year 2003 (the "August 2003 10-Q"). The August 2003 10-Q reaffirmed the financial

1 information released on July 16, 2003, and was signed and certified by Defendants DeNuccio
2 and Cronan.

3 198. On August 27, 2003, the Company announced that it had received another
4 extension from the NASDAQ Listing Qualifications Panel to October 11, 2003.

5 199. On October 1, 2003, Redback launched an exchange offer for all outstanding debt
6 set to expire at 12:00 midnight, Eastern Standard Time, on October 30, 2003. Under the terms of
7 the offer, “[h]olders of notes will receive approximately 101.6 shares of common stock, after
8 giving effect to an approximate 73.39:1 reverse stock split, for each \$1,000 of principal amount
9 of notes and related accrued interest exchanged.”

10 200. All of the above public statements were false and misleading for their failure, like
11 other filings in the Class Period, to disclose the following material facts:

- 12 a. Qwest did not need or want the products it purchased from Redback, and only
13 purchased the products because Redback had transferred securities (in Siara) to
14 Qwest executives or because Redback agreed to purchase services or products
15 from Qwest (or QCS) that Redback did not want or need;
 - 16 b. The SMS system that Qwest was “purchasing” was “unstable” and had not even
17 been tested by Qwest prior to its “purchase”;
 - 18 c. Qwest was not using the products sold by Redback, but was simply storing them
19 in a warehouse;
 - 20 d. Qwest’s buildup of its inventory of unwanted Redback products would likely lead
21 to drastically reduced sales to Qwest, or no sales at all, materially impacting
22 Redback’s revenues and earnings; and
 - 23 e. Redback’s financial reporting was materially false because Redback was not
24 properly accounting for the securities it gave the Qwest insiders in exchange for
25 sales contracts, and was not properly accounting for Redback’s reciprocal
26 agreements to purchase Qwest products and services.
- 27
28

1 Khosla's watch, several of Qwest's startup equipment suppliers
2 gave top Qwest executives chances to buy their stock at dirt cheap
3 prices.

4 Shortly after Redback began supplying Qwest with equipment, in
5 late 2000, Qwest's Cyber Solutions group announced a five-year,
6 \$18 million contract with Redback to help the vendor with
7 enterprise resource planning, customer relationship management,
8 and manufacturing operations.

9 The revelation that the SEC is snooping into Redback's past came
10 buried in the vendor's latest filing, which outlined to shareholders
11 its proposed financial restructuring. Under terms of the plan,
12 Redback needs its shareholders to approve a \$467 million debt-for-
13 equity swap that will leave them with only 5 percent of the
14 company. If shareholders don't accept the deal, Redback would
15 likely file for bankruptcy protection.

16 203. An article published on Broadbandlog.com on October 14, 2003 titled "All Eyes
17 on Qwest?" states in relevant part as follows:

18 As you might already know companies like CoSine and Redback
19 are under the microscope for giving stock options and other
20 benefits to some Qwest executives in exchange for hefty
21 equipment orders.

22 And that is not all. The Post reports that a "top Redback executive
23 and a former Redback director have ties to Qwest. And they
24 would be Joel Arnold, a former Qwest sales manager who left the
25 company in December 2001 and was sued by the SEC in February,
26 joined Redback in 2002. Vinod Khosla, a director at Qwest,
27 served on Redback's board until last year.

28 204. A Wall Street Journal article published on October 15, 2003 also reported on the
SEC investigation into Redback as follows:

Regulatory filings by Redback said the Securities and Exchange
Commission is looking into "certain equity investments" by
Qwest. Redback, based in San Jose, California, sold \$81.5 million
of goods and services to Qwest in 2000 and 2001, and bought
about \$13.5 million in services from Qwest, according to the
filings. A federal grand jury is investigating business transactions
between Denver-based Qwest and 11 of its vendors [including
Redback]The grand jury is investigating whether former Qwest

1 executives took discounted stock from some vendors in exchange
2 for giving them business, some of which Qwest may not have
3 needed.

4 205. On November 3, 2003, Redback filed for Chapter 11 bankruptcy protection. After
5 trading as high as \$179 during the Class Period, Redback's stock closed at \$0.36 per share. The
6 prepackaged bankruptcy plan was approved and became effective on January 2, 2004.

7 206. A November 24, 2003 investigation by *The Denver Post* reports that Michael
8 Perusse, "Qwest's former top vendor-relations executive," was described by former employees
9 of two Qwest suppliers – Redback and Corvis – as "Qwest's point man for deals in which Qwest
10 pressured those companies to buy unneeded services from it before it would complete orders for
11 their telecommunications equipment." The article described the secret *quid pro quo* deal
12 between Qwest and Redback as follows:

13 Perusse approached Redback Networks in late March 2001 with a
14 surprise demand: Before Qwest would complete its \$30 million
15 order for Redback gear, Redback had to buy something from
16 Qwest.

17 Perusse wanted Redback to buy \$7 million worth of transmission
18 rights on Qwest's fiber-optic network, according to two former
19 Redback employees familiar with the talks.

20 Redback, a small maker of telecom gear, had no use for the rights,
21 which most often were sold to much larger companies. But
22 Redback gave in to Qwest's demands anyway as a way to get
23 Qwest to close its purchase.

24 * * *

25 After relenting to Qwest's pressure, Redback tried to recoup its
26 money by unloading the network rights – also called infeasible
27 rights of use, or IRUs – but found no takers, even at auction.

28 It wasn't Qwest's only swap with Redback. In the third quarter of
2000, . . . Redback bought roughly \$14 million of Web-hosting
services from Qwest, the Redback veterans said.

In return, Qwest bought \$20 million of a Redback product called
SMS 10,000, which Qwest had not tested in its labs before the

1 deal, the two said. Big telecom firms rarely, if ever, buy
2 equipment without extensive testing.

3 **VI. Redback's Fraudulent Accounting Practices**

4 **Generally Accepted Accounting Principles ("GAAP")**

5 207. GAAP consists of those principles recognized by the accounting profession as the
6 conventions, rules, and procedures necessary to define accepted accounting practice. Those
7 principles are the official standards adopted by the American Institute of Certified Public
8 Accountants (the "AICPA"), a private professional association, through three successor groups it
9 established: the Committee on Accounting Procedure, the Accounting Principles Board (the
10 "APB"), and the Financial Accounting Standards Board (the "FASB"). GAAP includes various
11 authoritative pronouncements and literature, including Statements of Financial Accounting
12 Standards ("FAS"), APB Opinions and Statements of Financial Concepts ("CON").

13 208. Management is responsible for preparing financial statements that conform to
14 GAAP. As noted by the AICPA Auditing Standards ("AU"), Section 110.03:

15 Management is responsible for adopting sound accounting policies
16 and for establishing and maintaining internal controls that will,
17 among other things, record, process, summarize, and report
18 transactions (as well as events and conditions) consistent with
19 management's assertions embodied in the financial statements.
20 The entity's transactions and the related assets, liabilities and
21 equity are within the direct knowledge and control of management
22 . . . Thus, the fair presentation of financial statements in
23 conformity with Generally Accepted Accounting Principles is an
24 implicit and integral part of management's responsibility.

22 **SEC Regulations**

23 209. SEC Regulation S-X sets forth the form and content of and requirements for
24 financial statements required to be filed as part of annual reports under Sections 13 and 15(d) of
25 the Exchange Act. The Company, as a registrant under the Exchange Act, is subject to
26 Regulation S-X and its accompanying rules. As set forth in SEC Rule 4-01 (a) of SEC
27 Regulation S-X, "financial statements filed with the [SEC] which are not prepared in accordance
28 with [GAAP] will be presumed to be misleading or inaccurate." 17 C.F.R. § 210.4-01(a) (1).

1 SEC Regulation S-K states the requirements of non-financial statement portions of annual
 2 reports under Section 13 or 15(d) of the Exchange Act. The financial and non-financial
 3 information required to be disclosed in accordance with Regulations S-X and S-K are reported
 4 within Form 8-K, Form 10-Q and Form 10-K, among others.

5 210. The SEC regulates statements by companies “that can reasonably be expected to
 6 reach investors and the trading markets, whoever the intended primary audience.” SEC Release
 7 No. 33-6504, 3 Fed. Sec. L. Rep. (CCH) ¶ 23,120, at 17,095-3, 17 C.F.R. § 241.20560 (Jan. 13,
 8 1984). In addition to the periodic reports required under the Exchange Act, management of a
 9 public company has a duty promptly “to make full and prompt announcements of material facts
 10 regarding the company’s financial condition.” SEC Release No. 34-8995, 3 Fed. Sec. L. Rep.
 11 (CCH) ¶ 23,120A, at 17,095, 17 C.F.R. § 241.8995 (Oct. 15, 1970). The SEC has emphasized
 12 that “[i]nvestors have legitimate expectations that public companies are making, and will
 13 continue to make, prompt disclosure of significant corporate developments.” SEC Release No.
 14 18271, [1981-1982 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 83,049, at 84,618 (Nov. 19,
 15 1981).

16 211. In Accounting Series Release 173, the SEC reiterated the duty of management to
 17 present a true representation of a company’s operations:

18 [I]t is important that the overall impression created by the financial
 19 statements be consistent with the business realities of the
 20 company’s financial position and operations.

21 212. Item 7 of Form 10-K and Item 2 of Form 10-Q, Management’s Discussion and
 22 Analysis of Financial Condition and Results of Operations (“MD&A”) require the issuer to
 23 furnish information required by Item 303 of Regulation S-K [17 C.F.R. §229.303]. In discussing
 24 results of operations, Item 303 of Regulation S-K requires the registrant to:

25 [d]escribe any known trends or uncertainties that have had or that
 26 the registrant reasonably expects will have a material favorable or
 27 unfavorable or unfavorable impact on net sales or revenues or
 28 income from continuing operations.

213. The Instructions to Paragraph 303(a) further state:

1 [t]he discussion and analysis shall focus specifically on material
 2 events and uncertainties known to management that would cause
 3 reported financial information not to be necessarily indicative of
 future operating results . . .

4 214. The MD&A requirements are intended to provide, in one section of a filing,
 5 material historical and prospective textual disclosure enabling investors and other users to assess
 6 the financial condition and results of operations of the registrant, with particular emphasis on the
 7 registrant's prospects for the future. As Securities Act Release No. 33-671 states:

8 The Commission has long recognized the need for a narrative
 9 explanation of the financial statements, because of a numerical
 10 presentation and brief accompanying footnotes alone may be
 11 insufficient for an investor to judge the quality of earnings and the
 12 likelihood that past performance is indicative of future
 13 performance. MD&A is intended to give the investor an
 opportunity to look at the company through the eyes of management
 by providing both a short and long-term analysis of the business of
 the company.

14 **Redback's Financial Disclosures Violated GAAP and SEC Regulations**

15 215. During the Class Period, at the direction of defendants Kruep, Wolf and certain of
 16 the other Individual Defendants, Redback engaged in improper accounting practices and other
 17 improper disclosure practices in order to inflate the Company's reported revenues and overstate
 18 income from operations in violation of GAAP and SEC Regulations. All of the Individual
 19 Defendants knew or with deliberate recklessness disregarded that Redback and Qwest engaged in
 20 a scheme to materially misrepresent Redback's financial results and prospects, as well as its
 21 compliance with applicable accounting rules and regulations requiring proper disclosures. The
 22 illicit practices were undertaken with the knowledge or at the direction of Redback's top
 23 management, including defendants Kruep and Wolf, and were knowingly participated in by
 24 Perusse and Weisberg of Qwest. Defendant PwC also knew or with deliberate recklessness
 25 disregarded that Redback and Qwest were entering into undisclosed *quid pro quo* arrangements
 26 to artificially inflate Redback's and Qwest's revenues and misrepresent the demand for and sales
 27 of Redback's products.
 28

1 216. Regulation S-K, paragraph 229.101, required Redback to disclose the *quid pro*
2 *quo* arrangements with Qwest. That regulation requires the following matters to be disclosed
3 within the narrative description of the business: “The dependence of [the Company] upon a
4 single customer, or a few customers, the loss of which would have a material adverse impact on
5 the [Company]. The name of the customer and its relationship, if any, with the registrant or its
6 subsidiaries shall be disclosed if sales to the customer...are made in an aggregate amount equal
7 to 10 percent or more of the registrant’s consolidated revenues...” Redback was required to
8 fully disclose the nature of its relationship with Qwest, including the undisclosed sales pacts with
9 Qwest and Qwest’s executives.

10 217. In addition, Redback’s accounting for its sales to Qwest violated APB 29,
11 *Accounting for Non-monetary Transactions*, which governs the accounting for exchanges
12 between entities that involve non-monetary assets and liabilities. ABP 29 requires that non-
13 monetary transactions be accounted for based on the fair value of the assets or services involved
14 using the same basis as that used in monetary transactions. In particular, APB 29, paragraph 21,
15 states that “accounting for the exchange of a non-monetary asset between an enterprise and
16 another entity should be based on the recorded amount of the non-monetary asset relinquished.”
17 This GAAP provision provides that the culmination of the earnings process does not occur in a
18 situation where there is “an exchange of a product...held for sale in the ordinary course of
19 business for product...to be sold in the same line of business to facilitate sales to customers other
20 than the parties to the exchange.”

21 218. Redback’s exchanges with Qwest were essentially barter transactions in which the
22 parties exchanged unwanted goods or services in phony purchase and sale arrangements. In
23 these exchanges, in accordance with APB 29, the \$80 million in revenue Redback received from
24 Qwest should have been recognized by Redback only to the extent of the recorded amount of the
25 assets relinquished, which was arguably zero. In essence, any money or securities provided by
26 Redback to Qwest came back to Redback in the form of purchases of Redback products. Qwest
27 and Redback exchanged money and unwanted products and the exchanges were essentially
28 bogus barter transactions for which Redback should not have recorded any revenue.

1 219. In connection with the Company's acquisitions, Redback violated GAAP through
2 improper purchase accounting. Under APB 16, *Business Combinations*, the purchase price paid
3 to acquire a company should be allocated to all identifiable assets and liabilities based on their
4 fair market values. FAS 2, *Accounting for Research and Development Costs*, provides that
5 research and development costs should be charged to expense when incurred unless they have an
6 alternative future use. Redback's improper accounting techniques for IPR&D in the Company's
7 acquisitions enabled Redback to acquire valuable research projects and technology from Siara
8 and Abatis that would generate future revenue without incurring any associated costs, thus
9 resulting in artificially inflated earnings. By shifting \$40.4 million from goodwill to one-time
10 charge-offs in violation of GAAP, Redback was able to increase annual earnings by more than
11 \$1 million for each of the next 40 years.

12 220. Redback not only violated accounting standards outlined in APB 29 and ABP 16,
13 but also violated the basic foundation of GAAP. Statement of Financial Accounting Concepts
14 ("CON") No. 1, *Objectives of Financial Reporting by Business Enterprises*, requires that
15 financial reporting be transparent and reliable, which means that it must provide useful
16 information to shareholders, potential investors and others. Under CON 1, companies also must
17 provide accurate information about their financial performance during a reporting period. The
18 Company's undisclosed equity payments to and *quid pro quo* transactions with Qwest
19 purposefully masked the true nature of the revenue generated by Redback's sales to Qwest
20 throughout 2000 and 2001, and falsely enhanced the Company's general success in the
21 telecommunications market.

22 221. Likewise, as Redback's financial statements included bogus revenues resulting
23 from the Company's secret sales pacts with Qwest, Redback violated Statement of Financial
24 Accounting Concepts No. 2, *Qualitative Characteristics of Accounting*, which requires revenue
25 recognized by a company in its financial statements to accurately reflect the business operations
26 of the company and to be reliable. CON 2 specifies that financial information must be presented
27 in a conservative fashion and to ensure that uncertainties and risks inherent in the business are
28 adequately considered. Redback violated CON 2 by failing to provide complete information

1 about the underlying events and conditions of Qwest's agreements with and purchases from
 2 Redback. The illicit nature of Qwest's demands for lucrative stock kickbacks and *quid pro quo*
 3 purchases was inherently risky and intentionally or with deliberate recklessness masked from
 4 shareholders and investors in violation of CON 2.

5 222. In addition, because the revenue recognized by Redback from Qwest resulted
 6 from illicit deals, that revenue was contrived, uncertain and not reliable and should not have been
 7 recognized in accordance with CON 5, *Recognition and Measurement in Financial Statements of*
 8 *Business Enterprises*. CON 5 sets forth certain fundamentals of accounting that are intended to
 9 be the basis of financial accounting and reporting standards. With respect to revenue
 10 recognition, CON 5, paragraph 63 states that one of the fundamental revenue recognition criteria
 11 is, "Reliability – The information is representationally faithful, verifiable and neutral."

12 223. CON 5, paragraph 75 states that, "[t]o be reliable, information about an item must
 13 be representationally faithful, verifiable, and neutral. To be reliable information must be
 14 sufficiently faithful in its representation of the underlying resource, obligation, or effect of events
 15 and sufficiently free of error and bias to be useful to investors, creditors, and others in making
 16 decisions. To be recognized, information about the existence and amount of an asset, liability, or
 17 change therein must be reliable." The revenue recorded from Redback's bogus sales to Qwest
 18 was not reliable as defined under CON 5, and so Redback should not have recorded the revenue.

19 224. The Individual Defendants caused Redback to report in the Significant Policies
 20 footnotes in its Consolidated Financial Statements in its annual reports on Form 10-K that in
 21 2000, two customers accounted for 15% and 10% of the Company's revenue, and that in 2001,
 22 two customers accounted for 18% and 15% of the Company's revenue. These disclosures were
 23 inadequate and violated both APB 22, *Disclosure of Accounting Policies*, and SEC Regulation S-
 24 X. APB 22, paragraph 8 states that, "a description of all significant accounting policies of the
 25 reporting entity should be included as an integral part of the financial statements." APB 22,
 26 paragraph 12 states, "Disclosure of accounting policies should identify and describe the
 27 accounting principles followed by the reporting entity and the methods of applying those
 28 principles that materially affect the determination of financial position, changes in financial

1 position, or results of operations. In general, the disclosure should encompass important
2 judgments as to appropriateness of principles relating to recognition of revenue.”

3 225. Qwest was the customer that accounted for 15% and 18% of Redback’s 2000 and
4 2001 revenue, respectively, and the fact that the revenue from sales to Qwest was derived from
5 exchange transactions and illicit sales pacts should have been disclosed, as those facts directly
6 bear on the appropriateness of the revenue recognition.

7 226. In the Company’s Consolidated Financial Statements in its 2000 and 2001 10-Ks,
8 Redback reported that it had “issued 18,400 ...shares of common stock to consultants [and other
9 non-employees] in 1999. Grants to non-employee service providers and other non-employees
10 were vested at the date of issuance...No shares were issued to consultants [and other non-
11 employees] in 2001 or 2000.” These disclosures were inadequate and violated both FAS 123 and
12 SEC Regulation S-X.

13 227. FAS 123, *Accounting for Stock-Based Compensation*, governs the accounting and
14 disclosure requirements for transactions that involve the issuance of equity instruments such as
15 stock, options and warrants to employees and non-employees. FAS 123, paragraph 8, states that,
16 “[e]xcept for transactions with employees that are within the scope of [APB] Opinion 25, all
17 transactions in which goods or services are the consideration received for the issuance of equity
18 instruments shall be accounted for based on the fair value of the consideration received or the
19 fair value of the equity instruments issued, whichever is more reliably measurable.”

20 228. In addition, FAS 123, paragraph 46 states that “an entity [that issues stock to
21 employees and non-employees] shall provide a description of the [reason the shares were issued]
22 including the general terms of the [stock] awards, such as vesting requirements, the maximum
23 term of options granted, and the number of shares authorized for grants of options or other equity
24 instruments.” Redback’s failure to disclose the transfer of 40,000 Siara warrants to Qwest’s
25 executives violated FAS 123 and SEC Regulation S-X.

26 229. In violation of Regulation S-K, the Individual Defendants also knowingly or with
27 deliberate recklessness failed to disclose the uncertainties that they knew or reasonably expected
28 to have a material unfavorable impact on Redback’s net sales, revenues and income from

Qwest's reported multi-year, multi-million dollar sales contracts. In reality, Qwest made no commitment to purchase Redback's products and refused to honor its obligations unless Redback met Qwest's demands to purchase products and services from Qwest and its affiliates that had no value to Redback. Further, in violation of Regulation S-K, the Individual Defendants also knowingly or with deliberate recklessness disregarded and failed to disclose Qwest's demands that Redback transfer securities to Qwest executives or purchase products or services from Qwest and QCS, in order for Qwest to purchase products from Redback.

The Overall Impact of the GAAP and SEC Rules Violations

230. The amount of Redback's overstatement of revenue was material and substantial. In 2000, Redback's recognition of revenue from Qwest resulted in a \$40 million overstatement of revenue, about 15% of the Company's overall revenue in fiscal 2000. In 2001, Redback improperly recognized \$40.6 million in revenue from Qwest, representing about 18% of the Company's overall revenue in fiscal 2001.

231. As a result of Redback's and the Individual Defendants' violations of GAAP and SEC Regulations, approximately 16% (\$80.5 million out of total reported revenue of \$505.6 million) of Redback's revenue was materially overstated during the two-year period from January 2000 to December 2001. During the one-year period from July 2000 to June 2001, Redback's revenue was materially overstated by 23% (\$80.5 million out of total reported revenue of \$345.5 million). Also materially overstated during the Class Period as a result of Redback's fraudulent sales pacts with Qwest were Redback's net income, earnings per share, stockholder's equity, and accounts receivable, current assets and total assets.

232. In addition, Redback's accumulated deficit as reported within the Company's Balance Sheet in all Forms 10-Q and Forms 10-K filed with the SEC subsequent to December 31, 2001 was materially understated to the extent of the net income derived from the \$80 million in revenue from the Qwest contracts.

VII. Scienter

233. As alleged herein, the Individual Defendants acted with scienter in that they knew that the public documents and statements issued or disseminated in the name of the Company

1 were materially false and misleading, knew that such statements or documents would be issued
2 to the public, or acquiesced in the issuance or dissemination of such statements or documents as
3 primary violations of the federal securities laws. As set forth elsewhere herein in detail, the
4 Individual Defendants, by virtue of their receipt of information reflecting the true facts regarding
5 Redback, their control over and/or receipt of information of Redback's materially misleading
6 misstatements and/or their associations with the Company that made them privy to confidential
7 proprietary information concerning Redback, participated in the fraudulent scheme alleged.

8 234. Each of the defendants knew Redback's "contracts" and "revenues" from Qwest
9 were shams designed to create a false impression of demand for Redback's products and false
10 revenues, which were recorded by Redback during the Class Period. The Individual Defendants
11 solicited, negotiated and authorized the deals with Qwest described herein, or with deliberate
12 recklessness allowed those deals to occur, and the defendants were well aware or with deliberate
13 recklessness disregarded the fact that the purpose and effect of those fraudulent deals was to
14 artificially inflate Redback's revenues and thereby artificially inflate the Company's stock price.
15 All of the defendants were aware that the SMS™ 10000 being touted as part of the Qwest deals
16 was an unstable product. They also knew that the SmartEdge™ product with advanced features
17 was not ready for production or sales in 2001 when they touted the demand for that product and
18 falsely predicted revenues from sales that they knew would not be possible to obtain.

19 235. Furthermore, the Individual Defendants had the motive to commit the fraud as
20 they enjoyed rich compensation packages, which depended in large part on the Company's stock
21 price. In fact, the bulk of the Individual Defendants compensation was dependent on the price of
22 Redback's stock. The Individual Defendants also received numerous options on Redback's
23 stock. As Redback's stock increased in price, so did the value of the options granted to the
24 Individual Defendants.

25 236. The Individual Defendants negotiated and approved, or with deliberate
26 recklessness allowed to occur, the bogus transactions with Qwest and the falsifications of
27 Redback's financial results, in order to convey the impression that there was a sustained demand
28 for Redback's products by Qwest. The Individual Defendants engaged in the fraud to maintain

the illusion of growth and profitability at Redback, and to artificially inflate, and then maintain, Redback's stock price. Throughout the Class Period, the Individual Defendants shared an overriding motive to enrich themselves through sales of Redback stock at prices inflated by this fraud.

Pierre R. Lamond

237. Defendant Lamond served as Chairman of Board from November 1996 through May 2003. As Chairman, Lamond signed Redback's 2000, 2001 and 2002 10-Ks, as well as several Registration Statements.

238. As a member of the Audit Committee, Lamond was responsible for ensuring that Redback properly reported its financials in accordance with GAAP and GAAS. This responsibility includes determining that the auditors had completed their audit in accordance with the true nature of the Company's material contracts, such as its large contracts with Qwest during the Class Period. As stated in Redback's 2001 Proxy Statement:

The audit committee reviews, acts on and reports to the Board of Directors with respect to various auditing and accounting matters, including the selection of Redback's accountants, the scope of the annual audits, fees to be paid to Redback's accountants, the performance of Redback's accountants and the accounting practices of Redback. The audit committee meets independently with our independent accountants and our senior management and reviews the general scope of our accounting, financial reporting, annual audit and the results of the annual audit, interim financial statements, auditor independence issues, and the adequacy of the Audit Committee Charter.

239. In 1999, Sequoia distributed nearly 2 million shares of Redback common stock to its partners, including Lamond, during the post-IPO rally in Redback stock. According to Redback's 2000 Proxy Statement, at the end of 1999 Sequoia still owned almost 2.5 million shares (5.6%) of Redback common stock and Lamond held an additional 400,000 shares (1.1%).

240. On August 7, 2000, Sequoia distributed almost 1.6 million shares of Redback's common stock, about one-third of its holdings, to its partners, including Lamond. Based on the closing price of \$142.14 per share on the date of the distribution, the total value of the stock distribution was \$226.2 million. With the benefit of Lamond's non-public inside information,

1 Sequoia was able to execute the distribution near the height of the Class Period's artificial price
2 inflation. It was Sequoia's only distribution of Redback's stock to its partners during the Class
3 Period.

4 241. As Chairman of Redback's Board, where he was Sequoia's designated
5 representative, Lamond knew or with deliberate recklessness disregarded the truth about
6 Redback's fraudulent relationship with Qwest.

7 **Vinod Khosla**

8 242. As stated in the 2001 Proxy Statement, defendants Ragavan, Lamond and Khosla
9 collectively controlled, either directly or through beneficial ownership, at least 11% of Qwest's
10 outstanding common stock.

11 243. On August 11, 2000 and October 17, 2000, when (during the Class Period)
12 Redback's stock traded at its highest levels (and before the price began to decline), affiliates of
13 KPCB (where Khosla was a general partner) distributed to their investors over \$941.2 million in
14 Redback stock. This was a major coup for KPCB and caused its funds to achieve extraordinary
15 performance.

16 244. As a director of both Redback's and Qwest's boards, where he was KPCB's
17 designee, Khosla knew or with deliberate recklessness disregarded the truth about Redback's
18 fraudulent and material relationship with Qwest. In fact, as Khosla had positions on both sides
19 of the transactions, he was in a unique position to know the true nature of Redback's and
20 Qwest's fraudulent business relationship, and he fostered that relationship by arranging meetings
21 between executives of Redback and Qwest. Additionally, Khosla was on Siara's board of
22 directors at the time Qwest, Redback and Siara agreed to the transfer of 40,000 warrants in Siara
23 to Qwest executives in exchange for Qwest's commitment to purchase Redback's products.

24 245. Khosla did not confine his improper activities to Redback, as he served on the
25 boards of other equipment vendors who are charged with paying Qwest and Qwest insiders for
26 Qwest's business. In addition to representing KPCB's financial investments as a director of
27 Redback and Qwest, Khosla also represented KPCB on the boards of Corvis Corp., Siara,
28 CoSine Communications Inc., Cerent and Juniper Networks Inc., while each of these equipment

1 vendors negotiated deals with Qwest. Redback's improper deals with Qwest were known to and
2 facilitated by Khosla at the time he joined the Redback Board following the Siara merger.

3 246. Khosla has admitted that he has helped set up deals between carriers and
4 equipment startups. In a June 1, 2000 article in *Lightreading.com*, entitled "The Spotlight:
5 Vinod Khosla," Khosla explained how he provided what he called "venture assistance" in
6 arranging deals where a vendor agreed to ship products that it had not even developed. Khosla
7 also stated that it would be "ethical" for an equipment startup to issue its equity to individuals at
8 its carrier customers, so long as the decision-maker at the carrier was "not the one getting the
9 equity" and as long as there was "full disclosure."

10 247. Khosla has been linked directly to the improper activities at Qwest.
11 *Lightreading.com* reported on October 2, 2003 that, under Khosla's watch, several of Qwest's
12 startup equipment suppliers offered their stock to top Qwest executives at prices far below the
13 prevailing market prices on those stocks.

14 **Promod Haque**

15 248. Defendant Haque's compensation for serving on Redback's board, as a "non-
16 employee" director, consisted entirely of stock options.

17 249. Haque obtained his seat on the Redback Board due to the substantial investment
18 of Norwest Venture Partners VII L.L.P. ("Norwest") in Redback. Haque is a managing partner
19 of Itasca VC Partners VII L.L.P., the general partner of Norwest. During the Class Period,
20 Norwest held as much as 4.76%, of Redback's common stock.

21 250. On August 15, 2000 and October 17, 2000, Norwest distributed 4 million shares
22 of Redback's common stock to its partners, disposing of nearly 60% of its holdings. Based on
23 the closing prices of \$150.09 and \$135.26 per share on the dates of the distribution, respectively,
24 the total value of the stock distribution was \$571.8 million. Norwest executed the distribution
25 near the height of the Class Period's artificial price inflation. This was a major coup for Norwest
26 and caused its funds to achieve extraordinary results.

27 251. Haque was member of the Audit Committee of Redback's Board. As a member
28 of the Audit Committee, Haque was responsible for ensuring that Redback properly reported its

1 financials in accordance with GAAP and they had been audited in accordance with GAAS. This
2 responsibility includes determining the true nature of the Company's material contracts, such as
3 the contracts with Qwest.

4 252. Haque knew or with deliberate recklessness disregarded the truth about Redback's
5 fraudulent and material relationship with Qwest.

6 253. Below is a chart listing the Class Period distributions of Redback stock by the
7 venture capital firms associated with defendants Khosla, Lamond and Haque during the year
8 2000:

**VENTURE CAPITAL FIRMS'
REDBACK STOCK DISTRIBUTIONS DURING CLASS PERIOD**

Director/ Partner	Venture Capital Firm	Dividend Date	Shares Paid in Dividend	Closing Share Price	Value of Transaction on Dividend Date
Vinod Khosla	KPCB				
	KPCB Entities	8/11/2000	3,299,964	\$149.89	494,631,604
	KPCB Entities	10/17/2000	3,299,964	\$135.26	446,353,131
		SUB TOTAL:	6,599,928		\$940,984,735
Pierre Lamond	Sequoia Capital				
	Sequoia Capital VII	8/7/2000	1,504,112	\$142.14	213,794,479
	Sequoia Tech. Partners VII	8/7/2000	87,044	\$142.14	12,372,434
		SUB TOTAL:	1,591,156	\$142.14	\$226,166,913
Promod Haque	Norwest Venture Partners VII				
	Itasca VC Partners	8/8/2000	2,000,000	\$150.09	300,180,000
	Itasca VC Partners	10/17/2000	2,000,000	\$135.26	270,520,000
		SUB TOTAL:	4,000,000		\$570,700,000
GRAND TOTAL:			12,191,084		\$1.7 Billion

Kevin DeNuccio

254. On August 17, 2001, the Company offered Defendant DeNuccio employment with the Company. Redback's 2001 10-K stated that the terms of his employment included a \$500,000 base salary, 2.1 million in restricted stock, 6.5 million options to buy shares at \$4.17 each and a \$3 million signing bonus.

255. Prior to joining Redback, Defendant DeNuccio was the Senior Vice President of Worldwide Service Provider Sales at Cisco. He joined Redback in part because of his relationship with Defendant Lamond, a partner at Sequoia. According to an August 24, 2001 Lightreading.com article, "Sequoia funded Cisco in its early days and, later, it backed several of the companies Cisco has acquired. Sequoia is also a backer of Callisma Inc., where DeNuccio holds a board seat. DeNuccio also holds board seats at Salesnet Inc., BroadRiver Communications, Netpliance, and consultancy KPMG, where Cisco has an investment."

256. As CEO and President of Redback, DeNuccio is (and was throughout the Class Period) responsible for approving major contracts. Accordingly, the granting of stock to Qwest insiders, and the purchases of Qwest products made as part of the *quid pro quo* deals to obtain Qwest's business, could not have been made without DeNuccio's knowledge and/or approval, or his deliberate reckless disregard that those fraudulent actions were taking place.

Joel Arnold

257. As Redback's Senior Vice President of Worldwide Field Operations, Arnold was responsible for developing Redback's business strategy and implementing strategic partnerships, including partnership with telecommunications companies such as Qwest.

258. Redback's 2001 10-K sets forth Arnold's huge compensation package:

In January 2002, Redback entered into an employment agreement with Joel Arnold, SVP Field Operations. Pursuant to that Agreement the Company agreed to pay Mr. Arnold an annual salary of \$250,000 and a guaranteed annual bonus of \$250,000. In addition, the Company granted Mr. Arnold an option to purchase 1,000,000 shares of Redback common stock at a per share exercise price of \$3.98. The stock options were priced at 74.7% of the fair market value on the date of grant. The option vests over four years at the rate of 25% after one year and thereafter monthly for the remaining three years. In addition, Redback agreed to loan Mr.

1 Arnold \$500,000 to enable him to relocate to the San Jose area.
2 The loan has a four year term, carries no interest and has a single
3 balloon payment at the end of the term.

4 If Mr. Arnold ceases to be employed for any reason by Redback,
5 the loan becomes immediately due and payable within ninety (90)
6 days. In the event of a change in control and his termination (other
7 than for cause) or material changes in his scope of responsibility or
8 salary, Mr. Arnold will receive acceleration of vesting of 25% of
9 the shares granted pursuant to his 1,000,000 share option but not
10 more than 100% of his option grant. Mr. Arnold will also receive
11 up to 12 months salary continuation after such termination
12 following a change in control.

13 Additionally, at least one half of Arnold's potential annual compensation, excluding equity
14 grants, was contingent on his meeting his sales quota.

15 259. This is not the first time that Defendant Arnold has pumped a stock price through
16 unlawful means. While Arnold was at Qwest he participated in a scheme to overstate Qwest's
17 revenues through improper sales and Qwest consequently had to restate its financial statements
18 for the fiscal years 2000 and 2001. Ultimately, Qwest admitted overstating its revenues by a
19 staggering \$5.7 billion over a twenty-seven month period from January 2000 to March 2002 and
20 understating its losses by an incredible \$2.5 billion. During that period, Qwest insiders,
21 including Defendant Arnold, pocketed more than \$600 million by selling Qwest stock at
22 artificially inflated prices.

23 260. While at Qwest, Arnold participated in a fraudulent scheme to mischaracterize
24 Qwest's revenue. Arnold was Qwest's Executive Vice President of Global Business Markets
25 and was responsible for Qwest's sales, marketing and delivery of telecommunications services to
26 Qwest's business customers. While Arnold was responsible for Qwest's sales, Qwest refused to
27 complete a previously-placed order for \$30 million of Redback's product unless Redback
28 purchased an IRU for \$7 million, which Redback did not need and could not resell. Arnold and
others at Qwest forced Redback to purchase the IRU to fraudulently inflate Qwest's revenues.
On February 25, 2003, the SEC filed civil fraud charges in federal court in the District of
Colorado against Arnold and seven other former and current Qwest executives in an action styled
as *SEC v. Arnold, et al*, Civ. No. 03-Z-0328 (OES) (Feb. 25, 2003). The SEC complaint alleged

1 that Arnold and the other Qwest executives engineered manipulative transactions solely for the
2 purpose of inflating Qwest's revenues by \$144 million in order to meet earnings projections and
3 revenue expectations.

4 261. Also on February 25, 2003, Attorney General John Ashcroft and SEC Chairman
5 William Donaldson announced that a federal grand jury in Denver indicted four former Qwest
6 executives (Grant Graham, Thomas Hall, John Walker and Brian Treadway), in an action styled
7 as *United States v. Graham*, D. Colo., Criminal Case No. 03-CR-089 (Feb. 25, 2003). In a
8 February 25, 2003 Department of Justice press release, United States Attorney John Suthers of
9 the District of Colorado stated that: "[t]oday's indictment concludes only the first phase of the
10 Qwest investigation by the Justice Department. There are several other aspects of Qwest's
11 corporate conduct and the conduct of its executives that are the subject of a continuing
12 investigation."

13 **Vivek Ragavan**

14 262. Redback's 2002 Proxy Statement states that Ragavan was paid \$413,000 in salary
15 and bonus in 2000 and \$194,124 in salary and \$250,000 in severance in 2001.

16 263. In 2001, Ragavan sold 100,000 shares of Redback stock for \$2,532,500. On May
17 1, 2001, he transferred 1,188,835 shares, valued at the time of the transaction at over \$23 million,
18 to the Ragavan Family 2000 Living Trust. The trustees are Defendant Ragavan and his wife,
19 Nilima Ragavan.

20 264. On May 21, 2001, the date Ragavan left Redback, the Company repurchased
21 624,820 common stock shares from the Ragavan Family 2000 Living Trust at an undisclosed
22 price. Based upon the closing price of Redback stock on that date, the market value of the
23 transaction was almost \$11.9 million.

24 265. As CEO and President of Redback, Ragavan was responsible for approving major
25 contracts. Accordingly, the transfers of securities to Qwest insiders and Redback's purchases of
26 products and services from Qwest and QCS that Redback did not want or need, as part of the
27 illicit *quid pro quo* deals with Qwest, would not have occurred without Ragavan's prior review
28 and approval or his deliberate reckless disregard for the propriety of those actions.

Dennis Barsema

266. Redback's 2001 Proxy Statement stated that in 1999, Defendant Barsema's last full year as CEO of Redback, Barsema was paid \$325,000 in salary and bonus. In 2000, he was paid \$150,801 and received 180,000 Redback options. Starting on August 2, 2000 and ending on December 8, 2000, just before a sharp drop off in price, Barsema sold 620,000 shares of Redback stock on the open market for over \$70 million.

Gaurav Garg

267. Redback's 2001 Proxy Statement stated that in 2000, Defendant Garg was paid \$170,000 in salary and received 240,000 options in addition to the 300,000 options he was awarded in 1998.

268. During the Class Period, Garg sold 2,206,538 shares of Redback stock on the open market for a whopping \$44,910,958.

William H. Kurtz

269. While serving on Redback's Board throughout the Class Period, Defendant Kurtz signed Redback's materially false and misleading Forms 10-K for fiscal years 2000, 2001 and 2002, which he knew or with deliberate recklessness disregarded were false and misleading. Kurtz also signed Redback's materially false and misleading Registration Statements during those same years. As a member of Redback's Audit Committee of the Board and a certified public accountant with expertise in financial management, Kurtz was in aptly qualified to understand that Redback failed to properly disclose material information about the Company's financial condition and prospects, and its "sales" to Qwest. Like other Redback insiders, in October 2000, Kurtz sold 35,000 shares of Redback stock, reaping almost \$2.5 million in illicit proceeds, which was more than he sold at any other time and was suspiciously timed to take advantage of the undisclosed material facts and information described herein.

Craig Gentner

270. Redback's 2001 Proxy Statement stated that in 1999, Defendant Gentner received \$45,000 in salary (\$200,000 annualized) and 500,000 options. In 2000, he received \$300,000 in salary and bonus and an additional 50,000 options.

1 271. In October 2000, Gentner sold 120,000 shares of Redback for \$15,705,000.

2 **Randall Kruep**

3 272. As stated in the 2001 Proxy Statement document, a large part of Kruep's
4 compensation was contingent on his making his sales numbers and upon the price of Redback's
5 common stock. Redback's 2001 Proxy Statement stated that in 1999, Defendant Kruep received
6 \$125,000 in salary and \$295,000 in bonus and sales commission. In 2000, he received \$125,000
7 in salary, \$344,219 in bonus and sales commission and 290,000 options to buy Redback stock in
8 addition to the 300,000 options he was granted in 1998.

9 273. In August, September and October of 2000, Kruep sold a total of 64,000 shares of
10 Redback stock for \$9,647,218.

11 274. Kruep was not content with the amount of his trading and complained in an
12 August 12, 2002 Wall Street Journal article "Dialing for Dollars: Before Telecom Industry Sank,
13 Insiders sold Billions in Stock" that he would have sold much more if he could:

14 [H]e "would have gotten out faster if I could have," and now
15 wishes he could have sold double the \$100 million [sic – it was
16 \$50 million] he sold in share transactions during 1999 and 2000.
17 Tight trading "windows," which limited when insiders can sell
their shares, prevented Mr. Kruep from doing additional selling, he
says.

18 But for the trading restrictions in Redback stock, Defendant Kruep and the other Individual
19 Defendants would have engaged in more extensive unlawful insider trading based on material
20 non-public information.
21

22 **William Miskovetz**

23 275. On June 5, 2000 and August 5, 2000, Miskovetz sold a total of 20,000 shares of
24 Redback common stock for over \$2.6 million, which was suspiciously timed to take advantage of
25 non-public information he acquired through his senior-level engineering position regarding
26 material defects in the software and hardware in Redback's products. Miskovetz sold no other
27 stock during the Class Period and was at all relevant times aware of the true nature of Qwest's
28

1 purported purchases and Qwest's failure to test or implement the equipment it purchased from
2 Redback.

3 **Pankaj Patel**

4 276. In 2000, Defendant Patel received \$261,439 in bonus and salary, and was granted
5 225,000 options on Redback stock. In 2001, he earned \$249,115 and was granted 1,407,686
6 options. In 2002, he received \$267,188 in salary.

7 277. On March 1, 2001, Patel sold 144,000 shares of Redback stock for \$4,274,978,
8 which was his only sale during the Class Period and was suspiciously timed to take advantage of
9 non-public information he acquired through his senior-level engineering position regarding
10 material defects in Redback's products. Patel was at all relevant times, aware of the true nature
11 of Qwest's purported purchases and Qwest's failure to test or implement the equipment it
12 purchased from Redback.

13 **Dennis P. Wolf**

14 278. Redback's 2003 Proxy Statement stated that in 2001, Defendant Wolf received
15 \$360,833 in salary and bonus and options for 1,010,683 shares of Redback common stock. In
16 2002, he received \$285,000 in salary and 250,000 Redback options.

17 **Thomas L. Cronan, III**

18 279. As Redback's General Counsel and CFO, Cronan was in a unique position to
19 know the true nature of Redback's undisclosed *quid pro quo* contracts with Qwest and other
20 telecommunications companies. He also had the power to but failed to have Redback disclose
21 that it had transferred securities to Qwest executives and purchased Qwest's products or services
22 solely to obtain Qwest's business. Redback's 2004 Proxy Statement stated that in 2001,
23 Defendant Cronan received \$168,750 in salary and bonus; in 2002, he received \$192,500 in
24 salary, and in 2003 he received \$271, 875. He also received 644,659 options in 2003.

25 **Georges Antoun**

26 280. Defendant Antoun was one of Redback's five highest paid executives. Antoun
27 participated in the fraudulent scheme by pressuring Redback's customers, including
28 WorldCom/UUNET, to enter into undisclosed *quid pro quo* deals which concealed the

1 performance problems in and lack of demand for the Company's flagship products (including its
2 SMS™ and SmartEdge™ products) and the true nature of Redback's dealings with its
3 telecommunications customers.

4 281. The motive of the Individual Defendants to commit fraud included their ability to
5 profit from sales of the Company stock at artificially inflated prices. The Individual Defendants
6 engaged in extensive insider trading during the Class Period, taking advantage of Redback's
7 stock, which was artificially inflated by the defendants' fraud. The Individual Defendants sold
8 almost \$150 million of their personal holdings of Redback stock, the majority of the sales taking
9 place at prices many times the market price of Redback shares at the end of the Class Period. All
10 of these sales took place prior to the revelations of the fraud in October 2003.

11 282. The overwhelming bulk of the Individual Defendants' sales of Redback stock was
12 suspiciously timed and calculated to maximize personal benefit from undisclosed inside
13 information during the six-month period between June and December 2000. This period is when
14 Qwest was actively purchasing Redback's products in undisclosed *quid pro quo* agreements and
15 immediately follows Redback's May 30, 2000 press release touting its new SmartEdge 800
16 product during the period of the greatest sustained inflated share prices of Redback's common
17 stock. As demonstrated by the chart below showing Redback's stock price (adjusted for 2-for-1
18 splits on August 20, 1999 and April 4, 2000), from June 4, 1999 (before the Class Period) to
19 December 31, 2003, the Company's stock price rose dramatically from the beginning of the
20 Class Period in April 2000 and remained at Class Period highs throughout the period of the
21 greatest insider selling:



Note: The stock prices shown are adjusted for stock splits.

Michael Perusse

283. As Qwest's Senior Vice President of Engineering from 1998 through 2000, Perusse's responsibilities included finding promising technologies and introducing Qwest to the companies that created them. Perusse abused his power at Qwest to demand that companies selling to Qwest grant Qwest executives stock at discount rates or buy Qwest products that they did not want or need. Perusse made such demands to Redback and thereby participated in the scheme and plan to inflate Redback's revenue and mislead public investors.

284. Additionally, Perusse was one of the Qwest insiders who received kickback stock from Redback.

Marc Weisberg

285. Defendant Weisberg was Executive Vice President, Corporate Development of Qwest from October 2000 until September 2001. He joined Qwest as Senior Vice President, Corporate Development in September 1997. Weisberg oversaw Qwest's strategic alliances. He was also President and Chief Executive Officer of Qwest Investment Company, Qwest's wholly-

1 owned venture capital subsidiary. He conspired with defendant Kruep to transfer Siara warrants
2 to Qwest executives in return for Qwest's purchases of Redback products.

3 **PwC's Scienter And False And Misleading Audit Reports**

4 286. PwC is the largest firm of certified public accountants in the world and a member
5 of the AICPA. As the long-time auditor of Redback, PwC was intimately familiar with
6 Redback's financial condition. PwC had continual access to and knowledge of Redback's
7 confidential corporate financial and business information, including contract with Qwest and
8 internal monthly financial statements. Accordingly, PwC was privy to, knew of, or disregarded
9 with deliberate or extreme recklessness the accounting improprieties and violations of GAAP set
10 forth above. PwC allowed Redback to utilize the improper revenue recognition techniques
11 described herein and other improper accounting practices relating to the illicit *quid pro quo* and
12 barter transactions with Qwest, which PwC knew were improper and violated GAAP.

13 287. Defendant PwC audited the financial statements of Redback beginning in 1996
14 and for each year thereafter including fiscal years 2000, 2001 and 2002 during the Class Period.
15 PwC also reviewed the Company's quarterly financial results in fiscal years 2000, 2001 and
16 2002 through third quarter 2003 before they were publicly reported. At the conclusion of each
17 audit, PwC issued an unqualified opinion, stating that it had conducted its audits in accordance
18 with GAAS and that the financial statements fairly presented Redback's financial position in
19 accordance with GAAP. PwC knew and expected that its audit opinions would be disseminated
20 to Redback's stockholders and other potential investors in the Company, who would rely upon
21 those opinions when making investment decisions.

22 288. In addition to its audit work, PwC provided significant consulting, tax,
23 restructuring, securities filings, and acquisition-related services to the Company from 1996
24 through 2003 and received large fees for those services.

25 289. The Audit Committee's Report in Redback's 2001 Proxy Statement, stated:

26 *Audit Fees.* Fees for the fiscal year 2000 audit and the reviews of
27 the Forms 10-Q are \$235,000.

28 ...

All Other Fees. Aggregate fees billed for all other services rendered by PricewaterhouseCoopers LLP for the fiscal year ended December 31, 2000 are \$1,266,000, which principally related to acquisitions.

290. The Audit Committee's Report in Redback's 2002 Proxy Statement, stated:

Audit Fees. Fees for the fiscal year 2001 audit and the reviews of the Forms 10-Q were \$320,000.

...

All Other Fees. Aggregate fees billed for all other services rendered by PricewaterhouseCoopers LLP for the fiscal year ended December 29, 2001 were \$809,509, which principally related to acquisitions, securities filings, restructuring and tax related services.

291. The Audit Committee's Report in Redback's 2003 Proxy Statement, stated:

Audit Fees. Audit fees billed by PricewaterhouseCoopers LLP for the audit of our annual financial statements for the fiscal year ended December 31, 2002, and the review of our financial statements included in our quarterly reports on the Form 10-Q during the fiscal year ended December 31, 2002, totaled approximately \$425,000.

...

All Other Fees. Aggregate fees billed for all other services rendered by PricewaterhouseCoopers LLP for the fiscal year ended December 31, 2002 were approximately \$530,000, which principally related to tax related services. The audit committee has determined that the provision of such non-audit services is compatible with the independent accountants maintaining their independence.

292. The Audit Committee's Report in Redback's 2004 Proxy Statement, stated:

Audit Fees. For the years ended December 31, 2003 and 2002, PricewaterhouseCoopers billed Redback \$936,000 and \$425,000, respectively, for professional services rendered for the audits of the consolidated financial statements of Redback, the review of Redback's financial statements included in quarterly reports and

1 assistance with and review of the registration statements and other
2 regulatory filings.

3 *Audit Related Fees.* For the years ended December 31, 2003 and
4 2002, PricewaterhouseCoopers billed Redback \$59,000 and
5 \$54,000, respectively, for assurance and related services related to
6 consultations concerning financial accounting and reporting
7 standards and Sarbanes-Oxley Section 404 advisory work.

8 *Tax Fees.* For the years ended December 31, 2003 and 2002,
9 PricewaterhouseCoopers billed Redback \$398,000 and \$476,000,
10 respectively, for services related to federal, state, and international
11 tax compliance, tax advice and tax planning.

12 *All Other Fees.* PricewaterhouseCoopers billed Redback \$2,000 in
13 each of the years ended December 31, 2003 and 2002 for services
14 rendered for the license of an accounting and reporting research
15 tool.

16 293. Thus, in total, PwC received fees of approximately \$1.5 million, \$1.1 million,
17 \$955,000, and \$1.4 million respectively, in 2000, 2001, 2002 and 2003 for audit and other
18 services performed for Redback.

19 294. Additionally, PwC was required to review the information in Redback's public
20 filings that was outside the financial statements. AU § 550, *Other Information in Documents*
21 *Containing Audited Financial Information*, states that the auditor "should read the other [non-
22 financial] information and consider whether such information, or the manner of its presentation,
23 is materially inconsistent with information, or the manner of its presentation, in the financial
24 statements." If the auditor determines that such other information is either inconsistent with the
25 information contained in the financial statements or is aware of a material misstatement of fact
26 contained in the other information, then the auditor should withhold the use of the audit report
27 from the document containing the inconsistency or misstatement. AU § 550 at ¶¶ 04-06. Thus,
28 PwC was required to review the non-financial disclosures in Redback's public filings to
determine whether there was any inconsistency with the financial information presented in those
filings and, if so, PwC was required to withhold its certification of the financials.

1 295. Because PwC did not conduct its audits in accordance with GAAS, and because it
 2 acted with extreme and deliberate recklessness and consciously disregarded and ignored
 3 numerous warning signs that the Company's financial statements and other public statements
 4 were materially false and misleading, PwC did not discover, or deliberately ignored or with
 5 deliberate recklessness disregarded, the massive fraud being perpetrated by the defendants and
 6 the fact that the Company's financial statements were not prepared in accordance with GAAP.

7 296. PwC failed to report or disclose the facts regarding the defendants' fraudulent
 8 scheme to the public because, by remaining silent and issuing false and misleading audit
 9 opinions, PwC could and did continue to receive millions of dollars in auditing and consulting
 10 work from Redback (and Redback's affiliated companies) and the Individual Defendants.
 11 Additionally, by participating in the fraud or with deliberate recklessness allowing it to occur,
 12 PwC could continue its campaign to increase its market share for auditing, accounting and
 13 consulting services to be performed for Internet and telecommunications companies in general.

14 **PwC's Audits of Redback Failed to Comply with GAAS**

15 297. In certifying Redback's financial statements for 2000, 2001 and 2002, PwC
 16 falsely represented that it had conducted its audits in accordance with GAAS, and that Redback's
 17 financial statements were prepared in conformity with GAAP. GAAS are those standards
 18 recognized by the accounting profession as the professional standards issued by the Auditing
 19 Standards Board of the AICPA, which are to be followed by auditors in conducting an audit to
 20 determine if financial statements are presented in accordance with GAAP.

21 298. During the Class Period, a series of unusual transactions, accounting practices and
 22 other facts put PwC on notice that enhanced audit procedures were necessary. The rapid growth
 23 of Redback, especially in the face of a declining telecommunications sector, should have caused
 24 PwC to scrutinize Redback's accounting and its relationship with Qwest. Additionally, the
 25 unusual and late-in-the-quarter transactions with Qwest, and the unusual (for Redback) IRU
 26 purchase from Qwest, constituted additional "red flags" to PwC as it planned for and conducted
 27 its audit.
 28

299. Rather than closely scrutinize Redback's financial statements and accounting as required by GAAS, PwC deliberately or with deliberate recklessness chose to overlook irregularities in Redback's sales to Qwest and improper revenue recognition from the sales. PwC knew that Qwest was Redback's single largest customer and that Redback and Qwest were entering into sales agreements that generated large sales at the end of each quarter, which not coincidentally generated the amount of revenue required for Redback to meet its financial targets and Wall Street's expectations. PwC knew that Redback booked \$80.6 million in revenue (approximately 20% of the Company's total revenue) from its sales to Qwest in *quid pro quo* deals, but PwC simply ignored the obviously improper nature of the revenue booked in these exchange transactions.

300. Under GAAS, particularly SAS No. 82, *Consideration of Fraud in a Financial Statement Audit*, and AU § 110.01A, auditors have a defined responsibility to detect material misstatements in financial statements due to fraud. SAS No. 82 specifically identifies risk factors relating to misstatements arising from fraudulent financial reporting, including the lack of internal controls, declining industry conditions, management incentive compensation plans, and other factors showing a declining business operation. The SEC has long taken the position that auditors are expected to detect certain kinds of fraud. *See* Accounting Series Releases Nos. 19 and 292 ("Since routine audit procedures cannot always be relied upon to detect management fraud, the auditor must always be alert to unusual discrepancies and inconsistencies – such as . . . illogical management explanations and major confirmation exceptions – and take appropriate steps to investigate them.").

301. PwC violated SAS No. 82, which provides that an auditor must have considered the following factors in assessing audit risk: (a) whether management compensation creates a motivation to engage in fraudulent financial reporting, (b) domination of management by a small group; (c) one's actions which are not supported by proper documentation or are not appropriately authorized; (d) reporting records or files that should be, but are not, readily available and are not promptly produced when requested; and (e) lack of timely inappropriate documentation for transactions. PwC violated SAS No. 82 and the SEC rules governing its

1 conduct by failing to properly consider these risk factors and by failing to perform properly the
 2 audit procedures required in connection with the audits of Redback's 2000, 2001 and 2002 year-
 3 end financial statements.

4 302. PwC ignored risk factors that pointed to fraudulent financial reporting as outlined
 5 in AU Section 316, *Fraud in a Financial Statement Audit*. Among the many “red flags” putting
 6 PwC on notice that the accounting at Redback was improper, or at least demanded more scrutiny,
 7 are the following:

- 8 a. Redback’s executives had employment contracts that motivated them to engage in
 9 fraudulent financial reporting because their bonuses, stock options and other
 incentives were linked to the Company’s operating results and financial position;
- 10 b. Redback’s management was dominated by a small group with very significant
 11 stock holdings and options, and the Company lacked compensating controls such
 12 as effective oversight by an independent board of directors and audit committee;
- 13 c. Redback insiders sold \$150 million of the Company stock and the Company
 14 contracted to purchase millions of dollars of products and services from a Qwest
 affiliate, all while Redback incurred overall operating losses;
- 15 d. Redback was actively engaging in mergers and acquisitions and relying on a high
 16 stock price to fund the acquisitions;
- 17 e. Redback’s executives were employing aggressive purchase accounting in
 18 connection with the Company’s acquisitions;
- 19 f. The telecommunications sector was volatile in 2000 and 2001, and Redback’s
 20 reported double-digit revenue growth ran counter to the struggling
 telecommunications industry;
- 21 g. Redback was dependent on a select few customers, including Qwest, for its
 22 revenues;
- 23 h. Redback reported two separate multi-year, multi-million dollar contracts with
 24 Qwest, but the Company’s sales to Qwest immediately ceased in 2002 after the
 SEC began investigating suspicious revenue-recognition practices at Qwest;
- 25 i. Redback entered into numerous material sales transactions with Qwest close to
 26 the end of a reporting period;
- 27 j. Qwest was purchasing millions of dollars of products from Redback that had not
 28 been tested by Qwest, as was customary and required under Qwest’s business
 procedures;

- 1 k. Redback purchased an economically worthless IRU from Qwest for \$7 million in
2 2001 that had absolutely no business purpose or function at the Company, and
3 PwC was aware that in March 2002, the SEC began a public investigation of
4 Qwest's improper revenue recognition practices in 2000 and 2001, including
5 improper reciprocal IRU sales;
- 6 l. Redback failed to timely pay Qwest for the \$7 million IRU sale, and Qwest failed
7 to timely pay Redback for its reciprocal \$30 million purchase in 2001;
- 8 m. At the direction of defendant DeNuccio, Redback hired defendant Arnold for a
9 key executive position immediately prior to public disclosure of an SEC
10 investigation of Arnold's participation in fraudulent revenue recognition practices
11 at Qwest, although Arnold had no experience in Redback's business; and
- 12 n. In February 2003, the SEC named Joel Arnold as a defendant in a civil action
13 relating to his participation in a scheme to artificially inflate revenues while he
14 was a sales executive at Qwest in 2000 and 2001, which was when Qwest and
15 Redback engaged in a series of material reciprocal transactions.

16 303. PwC further violated SAS No. 82, by failing to properly evaluate risks of material
17 misstatements in Redback's financial records by (i) failing to exhibit the requisite professional
18 skepticism with regard to Redback's financial statements, (ii) failing to assign technically
19 proficient personnel to conduct the audits, (iii) failing to recognize that Redback's accounting
20 policies were unusually aggressive, and (iv) failing to ensure that Redback maintained sufficient
21 internal controls to prevent financial and accounting misstatements.

22 304. PwC also violated GAAS because its audits improperly departed from GAAS in
23 the following ways:

- 24 a. PwC violated GAAS general standards that auditors should maintain
25 independence in mental attitude for all matters relating to an engagement and that
26 due professional care must be exercised in performance of the audit.
- 27 b. PwC violated GAAS field work standards that require audits to be adequately
28 planned and supervised and require the auditor to obtain a sufficient
understanding of internal controls and sufficient, competent evidential matter to
afford a reasonable basis to support an opinion on the financial statements under
audit.
- c. PwC violated GAAS standards of reporting that require the audit report to state
whether financial statements are prepared in accordance with GAAP, to identify
circumstances that consistently fail to follow GAAP, to identify informative
disclosures that are not reasonably adequate and to contain an expression of
opinion or reasons why an opinion cannot be provided.

1 305. GAAS required PwC to consider whether the disclosures in Redback's financial
2 statements were adequate. SEC rules and regulations and GAAS require adequate disclosure of
3 all material matters. GAAS requires the disclosure of matters related to the "form, arrangement
4 and content of financial statements. . . . An independent auditor considers whether a particular
5 matter should be disclosed in light of the circumstances and facts of which he is aware at the
6 time." AU § 431.02-.03. PwC knew that Qwest was Redback's largest customer and knew or
7 with deliberate recklessness disregarded that Redback failed to adequately disclose material
8 matters relating to its transactions with Qwest. PwC needed corroborating documents to support
9 the assertions made by Redback in the financial statements, as mandated by AU Section 326,
10 *Evidential Matter*. Without such evidence to support questionable transactions such as Qwest's
11 purported multi-year, multi-million dollar agreements with Redback, PwC did not have a
12 reasonable basis for its audit opinion. PwC deliberately ignored or with deliberate recklessness
13 failed to follow the auditing guidance in assessing Redback's inadequate disclosures regarding
14 the Company's *quid pro quo* deals with Qwest, and PwC should have closely evaluated the fair
15 value of all transactions between Redback and Qwest, including Redback's suspicious IRU
16 purchase in 2001.

17 306. PwC disregarded with deliberate or extreme recklessness Redback's obvious
18 failure to report the nature of material transactions with Qwest that were essential to Redback's
19 reported financial results. Contrary to GAAS, PwC failed to require revisions to Redback's
20 disclosures and failed to issue qualified opinions on Redback's financial statements.

21 307. Throughout 2000 to October 2003, in connection with its audits of Redback's
22 financial statements, PwC violated numerous professional standards, including the following:

- 23 a. PwC violated GAAS General Standard No. 1, which provides that "the audit is to
24 be performed by a person or persons having adequate technical training and
25 proficiency as an auditor." Given the complex nature of Redback's and Qwest's
26 products and sales transactions and the determination of acquisition-related
27 charges for In-Process Research and Development projects, it was incumbent
28 upon PwC to ensure the individuals who performed the audit had the requisite
technical proficiency in those areas. PwC failed to do so.
- b. PwC violated GAAS General Standard No. 2, which requires that an
independence in mental attitude be maintained by the auditor in all matters related

1 to the assignment. Given PwC's substantial non-audit fees paid by Redback, PwC
 2 lacked the requisite independence when it audited the Company's financial
 statements.

- 3 c. PwC violated GAAS General Standard No. 3, and AU Section 230, *Due*
 4 *Professional Care in the Performance of Work*, paragraph .01 which require that
 5 due professional care be exercised by the auditor in the performance of the audit
 6 and the preparation of the report, as opposed to the deliberate reckless disregard
 7 described herein. Due professional care concerns what the independent auditor
 8 does and how well he or she does it. It also requires that the auditor exercise
 9 professional skepticism. PwC violated this standard by not recognizing the
 questionable nature and accounting for Redback's *quid pro quo* sales to Qwest
 and its numerous acquisitions. Given the pervasiveness of the accounting
 violations discussed herein, PwC failed to exhibit the requisite professional care
 in performing its audits.
- 10 d. PwC violated GAAS Standard of Field Work No. 2, which requires the auditor to
 11 make a proper study of existing internal controls, including accounting, financial
 12 and managerial controls, to determine whether reliance thereon was justified, and
 13 if such controls are not reliable, to expand the nature and scope of the auditing
 procedures to be applied. The standard provides that a sufficient understanding of
 14 an entity's internal control structure be obtained to adequately plan the audit and
 to determine the nature, timing and extent of tests to be performed. AU § 150.02.
 15 In all audits, the auditor should perform procedures to obtain a sufficient
 understanding of three elements of an entity's internal control structure: the
 16 control environment, the accounting system, and control procedures. AU §
 319.02. The control environment, which includes management's integrity and
 17 ethical values, is the foundation of internal control and provides discipline,
 18 structure and sets the tone of an organization. After obtaining an understanding of
 an entity's internal control structure, the auditor assesses the entity's control risk.
 19 AU § 319.02. Control risk is the risk that a material misstatement in an assertion
 by management contained in a company's financial statements will not be
 20 prevented or detected on a timely basis by an entity's internal control structure
 policies or procedures. AU § 319.29. The ultimate purpose of assessing control
 21 risk is to aid the auditor in evaluating the risk that material misstatements exist in
 the financial statements. AU § 319.61. The unrelenting downturn in the
 22 telecommunications industry was a significant factor that negatively affected the
 control environment at Redback and should have been a "red flag" to PwC as it
 23 planned for and conducted its audit. In the course of auditing the financial
 statements of Redback, PwC either knew or with deliberate recklessness
 24 disregarded facts that evidenced that Redback's management was establishing
 unrealistic financial and sales expectations and entering into reciprocal
 25 transactions with Qwest with no real business purpose or need. PwC disregarded
 26 weaknesses and deficiencies in Redback's internal control structures and failed to
 adequately plan the audit or expand the auditing procedures to include actual
 27 review of all agreements with Qwest and substantive tests of account balances as
 28 required by GAAS.

- e. PwC violated GAAS Standard of Reporting No. 1, which requires the auditor to attest to whether the financial statements are presented in accordance with GAAP. PwC's opinion falsely represented that Redback's financial statements were presented in conformity with GAAP when they were not for the reasons alleged herein. Redback's improper accounting practices discussed above rendered the Company's financial statements materially false and PwC should have detected, corrected and disclosed the misstatements.
- f. PwC violated GAAS Standard of Reporting No. 3, which provides that "informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report." The financial statement disclosures failed to adequately disclose the *quid pro quo* nature of the transactions entered into by and between Redback. Furthermore, because of the magnitude and scope of the transactions with Qwest — which accounted for almost 20% of Redback's revenues in 2000 and 2001 — PwC should have insisted on, and in fact had a professional responsibility in demanding, full and complete disclosure of Redback's dealings with Qwest, including the resulting accounting irregularities prior to the public release of Redback's financial statements.
- g. PwC violated GAAS Standard of Reporting No. 4, which requires that when an opinion on the financial statements as a whole cannot be expressed, the reasons therefore must be stated. PwC should have stated that no opinion could be issued by it on Redback's fiscal 2000, 2001 and 2002 financial statements or issued an adverse opinion stating that those financial statements were not fairly presented. PwC knowingly or with deliberate recklessness allowed Redback to make material misrepresentations regarding the Company to its shareholders and to the investing public during the relevant time period.
- h. PwC violated SAS No. 54 by failing to perform the audit procedures required in response to known or possible improper acts by Redback. GAAS required PwC to develop a plan that accounted for risks that Redback's financial statements included material misstatements arising from fraudulent financial reporting. AU § 315.16-18. Specifically, to comply with GAAS, PwC should have considered, but did not, the risk factors identified above that were present at Redback in designing the audit procedures to be performed. However, PwC ignored the risk factors and permitted Redback to overstate its revenue to meet unrealistic financial targets. Thus, PwC failed to properly audit Redback's financial statements in accordance with GAAS and violated the trust placed in PwC by Redback's shareholders and investors.
- i. PwC violated GAAS and the standards set forth in SAS Nos. 1 and 53 at a minimum by, among other things, failing adequately to plan its audit and properly supervise the work of assistants and to establish and carry out procedures reasonably designed to search for and detect the existence of errors and irregularities which would have a material effect upon the financial statements.

- 1 j. PwC violated GAAS in that it was required to communicate the presence of
2 “reportable conditions” at Redback, including undisclosed related-party
3 transactions and equity obligations. AU § 325.
- 4 k. PwC violated GAAS, particularly AU Section 333, *Management Representations*,
5 which requires the auditor to obtain written representations from management and
6 to investigate circumstances and evaluate the reliability of those representations
7 when they are contradicted by other evidential matter obtained in the audit. PwC
8 improperly relied on Redback management’s representations as a substitute for
9 the application of thorough auditing procedures as a basis for PwC’s unqualified
10 opinions on Redback’s financial statements. PwC was aware that any
11 representations made by management were suspect because management was
12 establishing unrealistic financial targets and entering into undisclosed sales pacts
13 with Qwest executives to meet its targets. Redback’s executives also had
14 enormous personal financial incentives to prop up the Company’s sales and
15 revenues. PwC therefore should have considered the reliability of all Redback
16 management representations prior to accepting them.
- 17 l. PwC violated all Section 341, *The Auditor’s Consideration of an Entity’s Ability*
18 *to Continue As A Going Concern*, which requires the auditor to evaluate, based on
19 relevant conditions and events that exist at or have occurred prior to the
20 completion of field work, whether there is a substantial doubt about the entity’s
21 ability to continue as a going concern and, if so, to include an explanatory
22 paragraph in the auditor’s opinion to reflect that conclusion. As PwC knew that
23 Redback’s financial condition was built upon sales to Qwest, Redback’s largest
24 customer, and knew or with deliberate recklessness disregarded that Redback was
25 purchasing Qwest’s business in the *quid pro quo* deals, PwC knew, or deliberately
26 or with deliberate recklessness ignored the fact that Redback’s ability to continue
27 as a going concern was in jeopardy, and so PwC should have provided that
28 conclusion in its audit opinions.
- m. PwC violated GAAS by failing to obtain sufficient “competent evidential matter”
to afford a reasonable basis for an opinion regarding Redback’s financial
statements, as required by AU §326. PwC issued “clean” unqualified opinions on
Redback’s financial statements throughout the relevant periods, when the
Company’s financial statements were not prepared in conformity with GAAP, a
clear violation of this auditing standard. In addition, PwC consistently failed to
exercise the required professional skepticism for blatantly suspicious undisclosed
related-party transactions with Qwest such as the IRU transaction in 2001. AU§
230.
- n. PwC violated GAAS in that it was required to identify all significant estimates for
In Process Research and Development (“IPRD”) and audit the amounts in relation
to historical patterns, review subsequent transactions and develop its own
expectation of the estimate in order to verify the amounts recorded in Redback’s
financial statements. AU§ 342. In particular, as part of performing its audits,
PwC was required by AU Section 342, *Auditing Accounting Estimates*, paragraph

.01 to obtain and evaluate sufficient evidential matter to support significant accounting estimates. Companies routinely take write-offs in connection with business combinations or acquisitions in a given period that are subject to some uncertainty at the time of the transaction. If the charge taken is a fair estimate of the assets acquired and the liabilities undertaken, the charge is proper and appropriate. The SEC has specifically denied excessive write-offs by companies such as Worldcom for IPRD for acquisitions of Internet or telecommunications companies. By failing to obtain sufficient evidence to confirm the size of the various research projects at companies Redback acquired during the Class Period, or by simply disregarding the overstatement of Redback's charges for IPRD in connection with various acquisitions, PwC violated AU Section 342.

- o. PwC violated GAAS in that it was required to issue a qualified opinion or disclaim an opinion altogether as a result of Redback's ongoing fraudulent scheme with Qwest. AU § 410. AU Section 410, *Adherence to Generally Accepted Accounting Principles*, paragraph .01 requires that the audit report state whether the financial statements are presented in accordance with GAAP. Because a number of Redback's accounting practices violated GAAP, PwC should have issued adverse or negative audit reports. To the contrary, PwC issued "clean" unqualified opinions on Redback's financial statements throughout the Class Period, suggesting that the Company's financial statements were prepared in conformity with GAAP, when in fact they were not, a clear violation of this auditing standard.
- p. PwC was required to qualify its opinion if there was any doubt about the Company's ability to proceed as a going concern. PwC knew that Qwest was Redback's largest customer and that sales to Qwest comprised a material (in some cases up to 27%) of Redback's total sales in a quarter. PwC also knew or with deliberate recklessness disregarded that Redback's *quid pro quo* sales to Qwest were improper and that, as a result, Redback's ability to continue as a going concern was in jeopardy. PwC ignored other factors that pointed to Redback's demise, such as the suspicious purchase of an IRU from Qwest that was unneeded and unwanted by any other company; excessive write-offs in acquisitions; reliance on Qwest and a few other customers in the declining telecommunications sector for all of Redback's revenues; and material sales to Qwest at the end of reporting periods that enabled Redback to meet unrealistic financial projections. These facts required PwC to amend its audit report to bring Redback's precarious financial condition to the attention of shareholders as specified in AU Section 341, *The Auditor's Consideration of an Entity's Ability to Continue as a Going Concern*.
- q. PwC failed to obtain sufficient, competent evidential matter as to the fair presentation, in all material respects, of Redback's financial position, results of operations, and its cash flows in conformity with generally accepted accounting principles. AU §§ 110, 150. AU Section 411, *The Meaning of Present Fairly in Conformity with GAAP*, recognizes the importance of reporting transactions in accordance with their substance. PwC failed to request and obtain competent

1 evidential matter regarding Redback's sales to Qwest — its largest customer —
 2 that would have enabled PwC to determine whether those transactions had a
 3 business purpose or were properly accounted for in accordance with GAAP, or
 4 whether the substance of these transactions differed from their form, in which
 5 case PwC was required to insist that Redback comply with GAAP and fully
 6 disclose its relationship with and the nature of its dealings with Qwest. PwC
 7 failed to raise questions regarding Redback's suspicious purchases, obtuse
 8 financial disclosures and excessive write-offs in acquisitions. Had PwC taken
 9 those steps, it would have uncovered the fraudulent nature of Redback's
 10 accounting practices, but PwC's failure to do so, despite its responsibilities under
 11 GAAP and GAAS, and the presence of the many red flags, constitutes either
 12 knowledge of the fraud or deliberate reckless disregard of it.

13 r. PwC violated GAAS in failing during its performance of interim reviews of
 14 quarterly financial statements to have a sufficient knowledge of internal controls,
 15 identify areas of potential misstatement and the likelihood of occurrence, or
 16 compare the amounts and ratios in the financial statements with expectations
 17 developed by PwC. Had PwC conducted an adequate quarterly review, PwC
 18 would have uncovered significant matters in the quarterly financial statements
 19 that were not in compliance with GAAP. Transactions such as recording
 20 revenues for transactions in which Redback was forced to buy valueless products
 21 and services from Qwest before Qwest would honor its obligations to Redback
 22 should have been adjusted and brought to the attention of the Audit Committee by
 23 PwC as required by AU Section 722, *Interim Financial Information*. PwC
 24 deliberately or with deliberate recklessness ignored Redback's routine practice of
 25 booking millions of dollars from sales to Qwest immediately prior to a reporting
 26 period and reciprocating by purchasing unwanted and unneeded products from
 27 Qwest immediately prior to or after the sales.

18 s. PwC violated GAAS by failing to obtain evidence directly from third parties as a
 19 means of testing Redback's balance sheet amounts, as required by AU § 329.
 20 Had PwC performed any testing through confirmations with Qwest, it would have
 21 obtained evidence that Qwest was not testing Redback's products in its labs (as
 22 Qwest routinely did before products were incorporated into its network), and PwC
 23 would also have learned that Qwest stored products it purchased from Redback in
 24 warehouses because Qwest had no real business need for those products. AU §
 25 329.

26 t. PwC also ignored its professional responsibilities under SAS No. 53, *The*
 27 *Auditor's Responsibility to Detect and Report Errors and Irregularities*, by
 28 accepting Redback's misleading representations of management and financial
 records. Thus, PwC failed to exercise the "professional skepticism" required by
 SAS 53 in the planning and performance of the audit.

u. AU Section 431, *Adequacy of Disclosure in Financial Statements*, paragraph .01
 provides that informative disclosures in the financial statements are to be regarded
 as reasonably adequate unless otherwise stated in the report. The financial

statement disclosures failed to adequately disclose the terms or the motives behind the numerous transactions between Qwest and Redback, a clear violation of this standard. PwC should have required, and in fact had a professional responsibility to demand, full and complete disclosure of important facts regarding Redback's dealings with Qwest prior to the public release of the Company's financial statements.

308. Because Redback's financial statements were not in conformity with GAAP, PwC should have required Redback to make the appropriate adjustments to bring them in conformity with GAAP, or should have issued a qualified audit report or an adverse audit opinion stating that the financial statements did not present fairly the results of operations and financial position of Redback in conformity with GAAP as required by AU Section 508, *Reports of Financial Statements*.

VIII. Inapplicability Of Statutory Safe Harbor

309. As alleged herein, the defendants acted with scienter in that the defendants knew at the time they issued them that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading or omitted material facts; knew that such statements or documents would be issued or disseminated to the investing public; knew that persons were likely to reasonably rely on those misrepresentations and omissions; and knowingly and substantially participated or were involved in the issuance or dissemination of such statements or documents as primary violations of the federal securities law. As set forth elsewhere herein in detail, the defendants, by virtue of their receipt of information reflecting the true facts regarding Redback, their control over, and/or receipt of Redback's allegedly materially misleading misstatements and/or their association with the Company which made them privy to confidential proprietary information concerning Redback which were used to inflate financial results and which defendants caused or were informed of, participated in and knew of the fraudulent scheme alleged herein. With respect to non-forward-looking statements and/or omissions, defendants knew and/or with deliberate recklessness disregarded the falsity and misleading nature of the information, which they caused to be disseminated to the investing public.

1 310. Defendants' false and misleading statements and omissions do not constitute
 2 forward-looking statements protected by any statutory safe harbor. The statements alleged to be
 3 false and misleading herein all relate to facts and conditions existing at the time the statements
 4 were made. No statutory safe harbor applies to any of Redback's material false or misleading
 5 statements.

6 311. Alternatively, to the extent that any statutory safe harbor is intended to apply to
 7 any forward-looking statement pled herein, the defendants are liable for the false forward-
 8 looking statement pled herein because, at the time each forward-looking statement was made, the
 9 speaker knew or had actual knowledge that the forward-looking statement was materially false or
 10 misleading, and the forward-looking statement was authorized and/or approved by a director
 11 and/or executive officer of Redback who knew that the forward-looking statement was false or
 12 misleading. None of the historic or present tense statements made by defendants was an
 13 assumption underlying or relating to any plan, projection or statement of future economic
 14 performance, as they were not stated to be such an assumption underlying or relating to any
 15 projection or statement of future economic performance when made nor were any of the
 16 projections or forecasts made by the defendants expressly related to or stated to be dependent on
 17 those historic or present tense statements when made.

18 **IX. Applicability of Presumption of Reliance: Fraud-On-The-Market Doctrine**

19 312. At all relevant times, the market for Redback's stock was an open, well-developed
 20 and efficient market at all relevant times for the following reasons, among others:

- 21 a. Redback common stock met the requirements for listing, and was listed and
- 22 actively traded on the NASDAQ, a highly efficient and automated market;
- 23 b. As a regulated issuer, Redback was required to file and did file periodic reports
- 24 with the SEC;
- 25 c. Redback regularly communicated with public investors via established market
- 26 communication mechanisms, including through regular disseminations of press
- 27 releases on the national and international circuits of major newswire services and
- 28

1 through other wide-ranging public disclosures, such as communications with the
2 financial press and other similar reporting services;

3 d. Redback was followed by several securities analysts employed by major
4 brokerage firms who wrote reports which were distributed to the sales force and
5 certain customers of their respective brokerage firms, which reports were each
6 publicly available and entered the public marketplace; and

7 e. The trading volume of Redback stock was substantial during the Class Period.

8 313. As a result, the market for Redback common stock promptly digested current
9 information regarding Redback from all publicly available sources and reflected such
10 information in Redback's stock price. Under these circumstances, all persons in the Class who
11 purchased Redback common stock during the Class Period based on Defendants' false and
12 misleading statements suffered similar injury through their purchase of shares of such stock at
13 artificially inflated prices and a presumption of reliance applies.

14 **X. Class Action Allegations**

15 314. Connecticut Retirement Plans brings this action as a class action pursuant to Rule
16 23 of the Federal Rule of Civil Procedure on behalf of itself and all persons who purchased or
17 acquired common stock in Redback (the "Class") between April 12, 2000 and October 10, 2003,
18 and who were damaged thereby.

19 315. Excluded from the Class are defendants, their subsidiaries and affiliates, and the
20 officers and directors of Redback, members of their immediate families and their legal
21 representations, heirs, successors or assigns or any entity in which any of the foregoing has a
22 controlling interest.

23 316. The Class is so numerous that joinder of all members is impractical. Throughout
24 the Class Period, Redback common shares were actively traded on the NASDAQ. As of October
25 10, 2003, Redback had outstanding over 183 million shares of its common stock. While the
26 exact number of Class members is unknown to Plaintiff at this time and can only be ascertained
27 through discovery, Plaintiff believes that there are thousands of members of the proposed class,
28 including individuals and entities too numerous to bring separate actions. It is reasonable to

1 assume that holders of Redback common stock are geographically dispersed throughout the
2 United States of America.

3 317. Record owners and other members of the Class may be identified from records
4 maintained by Redback or its transfer agent and may be notified of the pendency of this action
5 by mail, using the form of notice similar to that customarily used in securities class actions.

6 318. There are questions of law and fact that are common to the Class which
7 predominate over any questions affecting only individual Class members. The common
8 questions include:

- 9 a. Whether the defendants publicly disseminated or caused the Company to publicly
10 disseminate press releases, earnings pronouncements, regulatory filings and other
11 public statements during the Class Period which contained material
12 misrepresentations or omitted to state material facts necessary to make such
13 statements not misleading in violation of the federal securities laws as alleged
14 herein;
- 15 b. Whether the defendants participated in a fraudulent scheme to artificially inflate
16 and misrepresent the proceeds from Redback's sales to Qwest and thereby
17 artificially inflate Redback's stock price;
- 18 c. Whether the defendants acted intentionally with direct knowledge of the falsity of
19 such statements, or at least with deliberate recklessness, in making such
20 statements;
- 21 d. Whether the defendants are "controlling persons" as that term is defined in
22 Section 20(a) of the Exchange Act;
- 23 e. Whether the market prices of Redback's common stock during the Class Period
24 were artificially inflated due to material misstatements and omissions complained
25 of herein;
- 26 f. Whether the defendants concealed their breaches of fiduciary duties in causing,
27 directing and/or approving, or allowing or permitting, material misrepresentations
28

and omissions in the Company's public statements and filings relating to certain transactions with Qwest and the Company's financial condition;

g. Whether the individual Class members were improperly induced to purchase their Redback shares; and

h. Whether the members of the Class have sustained damages and, if so, what the appropriate measure of damages should be.

319. Lead Plaintiff is committed to prosecuting the Class claims and has retained competent counsel experienced in litigating claims of this nature. Lead Plaintiff's claims are typical of the claims of other members of the Class. Accordingly, Lead Plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class.

320. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

321. The prosecution of separate actions would create the risk of:

a. Inconsistent or varying adjudications which would establish incompatible standards for conduct for the defendants; and/or

b. Adjudications, which would as a practical matter be dispositive of the interests of other members of the Class.

322. Accordingly, a class action is superior to other available methods for the fair and efficient adjudication of this controversy. Additionally, because the damages suffered by individual members of the Class may in some circumstances be relatively small, the expense and burden of individual litigation make it impossible for such class members individually redress the wrongs done to them.

FIRST CAUSE OF ACTION

Violation Of Section 10(b) of The Exchange Act And Rule 10b-5 Promulgated Thereunder (Against All Defendants)

323. Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein.

1 324. This Count is asserted by Lead Plaintiff on behalf of itself and the Class against
2 all of the defendants and is based upon Section 10(b) of the Exchange Act, 15 U.S.C. 78j(b), and
3 Rule 10b-5, 17 C.F.R. 240.10b-5, promulgated thereunder.

4 325. During the Class Period, the defendants, singularly and in concert, directly carried
5 out a common plan, scheme and unlawful course of conduct, pursuant to which they intended to
6 and, throughout the Class Period, did: (a) deceive the investing public, including Plaintiff and
7 other Class members, as alleged herein; (b) artificially inflate and maintain the market price of
8 Redback's stock; and (c) cause Plaintiff and other members of the Class to purchase or otherwise
9 acquire Redback's stock at artificially-inflated prices. In furtherance of this unlawful scheme,
10 plan and course of conduct, the Defendants, collectively and each of them, took the actions set
11 forth herein.

12 326. The defendants intentionally or with deliberate recklessness: (a) employed
13 devices, schemes, and artifices to defraud; (b) made untrue statements of material fact and/or
14 omitted to state material facts necessary to make the statements not misleading by use of means
15 or instrumentalities of interstate commerce; and (c) engaged in acts, practices, and a course of
16 business which operated as a fraud and deceit upon the purchasers and acquirers of the
17 Company's stock in an effort to maintain artificially high market prices for Redback's stock in
18 violation of Section 10(b) of the Exchange Act and Rule 10b-5.

19 327. The defendants engaged in the fraudulent activity described above knowingly and
20 intentionally or with such extreme or deliberate recklessness as to constitute willful deceit and
21 fraud upon Plaintiff and the Class. The defendants knowingly or with extreme or deliberate
22 recklessness caused their reports and statements to contain misstatements and omissions of
23 material fact as alleged herein, which caused Redback's stock price to be inflated at the time of
24 Plaintiffs' purchases.

25 328. As a result of the defendants' fraudulent activity, the market price of Redback's
26 stock was artificially inflated during the Class Period, and remained inflated until the market
27 began to no longer believe the defendants' fraudulent statements. Defendants'
28

1 misrepresentations induced a disparity between the transaction price and the true investment
2 quality and value of Redback's stock at the time Plaintiffs purchased or acquired the stock.

3 329. The market price of Redback's stock declined materially when the defendants
4 could not prop up Redback's stock price any more through their fraud.

5 330. In ignorance of the true financial condition of Redback, Plaintiff and other
6 members of the Class, relying to their detriment on the integrity of the market and/or on the
7 statements and reports of Redback containing the misleading information, purchased or
8 otherwise acquired Redback stock at artificially inflated prices during the Class Period.

9 331. Had Plaintiff and the other members of the Class known the truth, they would not
10 have purchased Redback's stock or would not have purchased the stock at the inflated prices that
11 were paid.

12 332. Plaintiffs' losses were proximately caused by defendants' active and primary
13 participation in Redback's scheme to defraud the investing public by misrepresenting and
14 improperly accounting for reported revenue, intentionally misrepresenting market demand for
15 Company products, mischaracterizing and falsely representing material contracts, failing to
16 report *quid pro quo* swap arrangements and stock payment kick back schemes to material
17 customer insiders, and overstating assets and fabricating cash flow.

18 333. Plaintiff and the other Class members purchased Redback's stock in reliance on
19 the integrity of the market price of the stock and/or defendants' fraudulent and misleading
20 statements and regulatory filings, and defendants manipulated the price of Redback's stock
21 through their misconduct as described above.

22 334. Further, defendants' misconduct proximately caused the losses of Plaintiff and
23 other Class members. Plaintiffs' losses were a direct and foreseeable consequence of
24 defendants' failure to disclose and concealment of, *inter alia*, the true nature of the Company's
25 contracts with Qwest including Redback's *quid pro quo* stock grants to Qwest insiders,
26 Redback's purchase of services and products from Qwest (and Qwest affiliates) solely to obtain
27 Qwest's business, and the true nature of Redback's revenue and cash position. As a direct and
28 proximate cause of the defendants' wrongful conduct, Plaintiff and other members of the Class

suffered substantial damages in connection with their respective purchases and sales of Redback's stock during the Class Period.

SECOND CAUSE OF ACTION

Violation of Section 18(a) of the Exchange Act Against DeNuccio, Lamond, Cronan, Kurtz, Khosla, Wolf, Gentner, Ragavan, Barsema, Garg, Haque, and PwC (the "Section 18 Defendants")

335. Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein.

336. This Count is asserted by Lead Plaintiff on behalf of itself and the Class against the Section 18 Defendants and is based upon Section 18 of the Exchange Act, 15 U.S.C. 78r.

337. As set forth above, in reports and documents filed with the SEC filed during the Class Period, including without limitation Redback's Forms 2000, 2001 and 2002 10-K and its Forms 8-K issued during the Class Period, Defendants made or caused to be made statements which were, at the time and in light of the circumstances under which they were made, false or misleading with respect to material facts.

338. Each of the above reports was filed with the SEC pursuant to the Securities and Exchange Act of 1934.

339. Each of the Section 18 Defendants that were officers and directors of the Company signed certain of Redback's Forms 10-K and Forms 8-K filed with the SEC during the Class Period, and PwC certified the financial statements in Redback's Forms 10-K as set forth herein.

340. The Section 18 Defendants knew or with extreme or deliberate recklessness disregarded that such statements were false and misleading because defendants: (a) knew that Qwest was a material Redback customer; (b) knew or had access to the materially adverse non-public information regarding the true *quid pro quo* nature of Redback's contracts with Qwest; and (c) had an obligation to inform themselves of the publicly-issued statements of the Company.

1 341. PwC consented to the use of its unqualified opinion in Redback's financial
2 statements and reports filed with the SEC. These financial statements were incorporated into and
3 made a part of the Company's Exchange Act filings with the knowledge and express consent of
4 PwC. PwC knew or with extreme or deliberate recklessness disregarded that its unqualified
5 opinions filed with the SEC were in fact false and misleading.

6 342. The Section 18 Defendants' conduct resulted in the Company issuing false and
7 misleading statements with respect to its revenues, income, earning per share and market demand
8 for its products. The Section 18 Defendants' conduct also resulted in the Company
9 misrepresenting that its financial statements filed during the Class Period were presented in
10 conformity with GAAP or principles of fair reporting.

11 343. In connection with the purchase of Redback's stock, Plaintiff and other Class
12 Members read and reasonably relied upon the statements contained in the reports and documents
13 set forth above not knowing that such statements were false and misleading.

14 344. As a direct result of the false and misleading statements in the Forms 10-K and
15 Forms 8-K described herein, Plaintiff and other Class Members purchased Redback stock and an
16 artificially-high price, and they were significantly damaged thereby.

17 345. As a result of the Section 18 Defendants' fraudulent activity, the market price of
18 Redback's stock was artificially inflated during the Class Period, and remained inflated until the
19 market began to no longer believe the defendants' fraudulent statements. Defendants'
20 misrepresentations induced a disparity between the transaction price and the true, investment
21 quality and value of Redback's stock at the time Plaintiffs purchased or acquired the stock.

22 346. The market price of Redback's stock declined materially when the defendants
23 could not prop up Redback's stock price any more through their fraud.

24 347. The market price of Redback's stock declined materially when the defendants
25 could not prop up Redback's stock price any more through their fraud.

26 348. By virtue of the foregoing, defendants have violated Section 18 of the Exchange
27 Act.

1 349. As a direct and proximate result of defendants' wrongful conduct, Plaintiff and
 2 other Class members suffered damages in connection their purchases of Redback common stock
 3 during the relevant period.

4 **THIRD CAUSE OF ACTION**

5 **Violation of Section 20(a) of the Exchange Act** 6 **Against The Individual Defendants**

7 350. Plaintiffs repeat and reallege each and every allegation contained above as if fully
 8 set forth herein.

9 351. The Individual Defendants acted as controlling persons of Redback within the
 10 meaning of Section 20(a) of the Exchange Act as alleged herein. By virtue of their executive
 11 positions, Board membership and/or stock ownership, as alleged above, the Individual
 12 Defendants had the power to influence and control and did influence and control, directly or
 13 indirectly, the decision-making of the Company, including the content and dissemination of the
 14 various materially false and misleading statements, and artificially creating revenue and false
 15 product demand by entering into *quid pro quo* contracts with Qwest in which both companies
 16 sold products and services to each other that neither company needed or wanted and granting
 17 stock to Qwest insiders to secure large contracts. The Individual Defendants were provided with
 18 or had unlimited access to copies of the Company's internal reports, press releases, public filings
 19 and other statements that they knew or with extreme or deliberate recklessness disregarded were
 20 materially false and misleading prior to and/or shortly after these statements were issued and had
 21 the ability to prevent the issuance of the statements or cause the statements to be corrected.

22 352. In particular, the Individual Defendants had direct involvement in the day-to-day
 23 operations of the Company and contracts with Qwest, or oversight responsibilities thereof, and
 24 therefore, are presumed to have had the power to control or influence the particular transactions
 25 giving rise to the securities violations as alleged herein, and exercised the same.

26 353. As set forth above, Redback and each of the Individual Defendants committed a
 27 primary violation of Section 10(b) and Rule 10b-5 and Section 18 of the Exchange Act by the
 28 acts and omissions alleged in this Complaint. By virtue of their positions as controlling persons

1 of Redback and certain of the Individual Defendants, all of the Individual Defendants are liable
2 pursuant to Section 20(a) of the Exchange Act. As a direct and proximate result of the Individual
3 Defendants' wrongful conduct, Plaintiff and the other members of the Class suffered damages in
4 connection with their purchase or acquisition of Redback's stock.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs pray for relief and judgment, as follows:

7 (a) Determining that this action is a proper class action under Rule 23 of the Federal
8 Rules of Civil Procedure;

9 (b) Awarding compensatory damages in favor of Lead Plaintiff and all other Class
10 members against all defendants, jointly and severally, for all damages sustained as a result of
11 defendants' wrongdoing, in an amount to be proven at trial, including interest thereon;

12 (c) Compelling the Individual Defendants to disgorge the proceeds from their
13 unlawful insider trading;

14 (d) Awarding Lead Plaintiff and all Class members their costs and disbursements of
15 this suit, including reasonable attorneys' fees, accountants' fees and experts' fees;

16 (e) awarding such other and further relief as may be just and proper.
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JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury on all claims so triable.

Dated this 24th day of August, 2004

/s/ Stuart M. Grant

Stuart M. Grant (*pro hac vice*)

John C. Kairis (*pro hac vice*)

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CERTIFICATE OF SERVICE

I hereby certify the foregoing was served upon the following counsel of record by electronic case filing on August 24, 2004:

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I further declare, pursuant to Civil L.R. 23-3, that on the date hereof I served the foregoing on the Securities Class Action Clearinghouse by electronic mail through the following electronic mail address provided by the Securities Class Action Clearinghouse:

Securities Class Action Clearinghouse
Stanford Digital Law Project
559 Abbott Way
Stanford, CA 94305-8612
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_____/S/____ Lauren E. Wagner_____
Lauren E. Wagner